

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JON LUER AND ANDREA)
STEINEBACH,)
)
Plaintiffs,) Cause No. 4:17-CV-767-NAB
)
vs.)
)
ST. LOUIS COUNTY, MISSOURI,)
MICHAEL CLINTON, AND)
BENJAMIN SELZ,)
)
Defendants.)

DEPOSITION OF JON LUER
TAKEN BY CARL W. BECKER, ESQ.
ON BEHALF OF THE DEFENDANTS
APRIL 26, 2018

REPORTED BY KAREN M. RUSSO
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Jon Luer
4/26/2018

Page 2

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Defendants.)

DEPOSITION OF JON LUER, produced, sworn, and examined on April 26, 2018, at the offices of ACLU of Missouri Foundation, 906 Olive Street, Suite 1130, St. Louis, Missouri, 63101, before Karen M. Russo, Certified Shorthand Reporter within and for the State of Missouri, in a certain cause now pending in the United States District Court, Eastern District of Missouri, Eastern Division, between Jon Luer and Andrea Steinebach, Plaintiffs, vs. St. Louis County, Missouri, Michael Clinton, and Benjamin Selz, Defendants.

Jon Luer
4/26/2018

Page 3

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12 ALSO PRESENT:

13 Benjamin Selz
Michael Clinton
Richard Lawson
14 Andrea Steinebach

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Jon Luer
4/26/2018

Page 4

1	I N D E X		
2		Page	
3	Direct Examination by Mr. Becker	5	
4	Cross-Examination by Mr. Praiss	83	
5	E X H I B I T S		
6			
7	Exhibit	Description	Page
8	7	search and seizure procedures	66
9	9	citizen complaint	46
10	10	guide to making complaints	57
11	11	complaint review procedure	57
12	12	photograph	58
13	13	photograph	59
14	14	photograph	59
15	15	previously marked photograph	60
16	16	previously marked photograph	62
17	17	previously marked photograph	66
18	23	firearms license	18
19	24	photograph	78
20	25	photograph	78
21	26	photograph	80
22	27	photograph	81
23	28	photograph	82
24			
25			

Jon Luer
4/26/2018

Page 5

S T I P U L A T I O N

IT IS HEREBY STIPULATED AND AGREED by and between counsel for the parties that this deposition may be taken in shorthand by Karen M. Russo, CSR, RPR, and afterwards transcribed into printing, and signature by the witness is not waived.

JON LUER,

of lawful age, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, deposes and says on behalf of the Defendants as follows:

DIRECT EXAMINATION

BY MR. BECKER:

Q. Good morning. Would you please state your name?

A. Jon Hamil Luer.

Q. And Mr. Luer, I just want to identify everyone in the courtroom. The court reporter is Karen Russo. Your attorney Omri Praiss, is here, correct?

A. Uh-huh.

Q. Correct?

A. Correct.

Q. And your wife Andrea Steinebach is here, correct?

A. Correct.

Q. I'm Carl Becker, and I represent the defendants

Jon Luer
4/26/2018

Page 6

1 in Luer versus County, Clinton, and Selz. You understand
2 that, correct?

3 A. Correct.

4 Q. Also in the room to my left is Defendant Selz,
5 correct?

6 A. Yes.

7 Q. And also police Officer Defendant Michael
8 Clinton, correct?

9 A. Yes.

10 Q. And Captain Kevin Lawson is at the end of the
11 table, correct?

12 A. I believe you.

13 Q. Have you ever given your deposition before?

14 A. I have not.

15 Q. And you sat through part of Officer Selz's
16 deposition Tuesday; is that correct?

17 A. Officer Clinton, I believe.

18 Q. Just Officer Clinton's depo?

19 A. The afternoon deposition.

20 Q. So did you hear the ground rules that Ms.
21 Steffan set forth with respect to the witness and so
22 forth in the preceding of the depo?

23 A. I was there at the beginning so that would have
24 been the ground rules. I could not repeat them.

25 Q. I'm going to for you just so we understand each

Jon Luer
4/26/2018

Page 7

1 other. Please answer out loud, not a shake of the head,
2 not an uh-huh or huh-uh, but rather a yes, no, or
3 whatever the answer is, fair?

4 A. Yes.

5 Q. If you don't understand a question please ask
6 me to repeat it, okay?

7 A. Very good.

8 Q. If you do answer a question I'll assume you
9 understand it; is that fair?

10 A. Yes.

11 Q. If you need to take a break at anytime, you
12 have a cup of coffee in front of you, right, feel free, I
13 get it, and we'll be happy to take a break. Is that
14 fair?

15 A. Yes.

16 Q. All right. As you sit here today, do you have
17 any physical conditions that would inhibit your ability
18 to testify truthfully and completely today?

19 A. None.

20 Q. And did you get enough sleep last night?

21 A. I did.

22 Q. You feel rested enough to be able to answer
23 truthfully and completely this morning?

24 A. I do.

25 Q. How about have you taken any medications or

Jon Luer
4/26/2018

Page 8

1 anything like that that might inhibit your ability to
2 answer the questions truthfully and completely this
3 morning?

4 A. None at all.

5 Q. You're aware that you have been sworn under
6 oath to tell the truth and the court reporter is taking
7 your testimony, correct?

8 A. I do.

9 Q. And what did you do for preparation for this
10 deposition?

11 A. Last Sunday my wife and I were on a conference
12 phone call with Jessie Steffan, lawyer with the ACLU, for
13 about a half hour. She knew that neither one of us had
14 been through one of these before and she was just telling
15 us what to expect.

16 Q. How long did that phone call last?

17 A. About a half hour.

18 Q. Did you do anything else to prepare for the
19 deposition today?

20 A. My wife and I reviewed the original complaint
21 that we put in shortly after the incident happened.

22 Q. When you say the original complaint --

23 A. We wrote it down while it was still fresh in
24 our mind. Now several years have gone by. Went back and
25 just reviewed it to refresh ourselves exactly. I had

Jon Luer
4/26/2018

Page 9

1 prepared it so it was my viewpoints, but things sort of
2 get foggy with time. It was just like, yeah, that's how
3 I remembered it. It was to refresh myself.

4 Q. Just so I'm clear, I think that document has
5 been produced to the defendants, but the document you're
6 referring to, those are just your notes that you wrote
7 down, not anything you gave to the police department; is
8 that correct?

9 A. Those notes that I wrote down were 100 percent,
10 I believe, transmitted to the police department through
11 the police department's website for the -- where you
12 could file an accommodation or a complaint. I didn't
13 shorten them or modify them in any way that I recall.

14 Q. We're going to get to that document, I
15 appreciate that. But did you cut and paste it then and
16 just put it into the complaint?

17 A. I believe that's how I did it.

18 Q. Thank you. Anything else you did for
19 deposition prep?

20 A. No.

21 Q. When did you first meet with a lawyer to
22 discuss this case? I don't want to know what you
23 discussed, just when you first met with a lawyer.

24 A. It was quite sometime afterwards. I don't
25 remember exactly, but I would say it was very late of the

Jon Luer
4/26/2018

Page 10

1 year 2016, probably Thanksgiving time frame.

2 Q. All right. And the incident happened July 10,
3 2016, correct?

4 A. Yes.

5 Q. And why did you wait five months to talk to a
6 lawyer?

7 A. It took me a while through self deliberation,
8 discussion with my spouse, what do we want to do for
9 this, what good would come. And so we deliberated, and
10 approaching the ACLU was one thought that we had because
11 it's -- we know that they represent a lot of cases. We
12 don't have a lot of resources to fund something, and if
13 they believed it was a good case they would have taken it
14 on their own.

15 It did take also the ACLU a little bit of time
16 to respond and get back with me. So by the time I first
17 had contact months would have gone by.

18 Q. So what was your first contact? Was it in
19 writing then or did you make a phone call?

20 A. I believe it was through e-mail.

21 Q. All right. Was that in December of 2016?

22 A. The submission of my statement of what I
23 believed happened was prior to that, and then it took
24 them a while. I guess they get a lot of cases, is my
25 understanding. Then they filter through which ones they

1 believe have merit, which ones don't. They selected mine
2 to proceed, and then they contacted me and we went
3 forward from there.

4 Q. So they contacted you in December of 2016?

5 A. Or a little bit before then, but it was several
6 months after I shared my case with them.

7 Q. Did you discuss your case with any other
8 lawyers other than the ACLU lawyers?

9 A. I did not.

10 Q. And did you approach any other lawyers?

11 A. I did not.

12 Q. How long have you lived on Van Loon?

13 A. Since 2001.

14 Q. And your height and weight? I could guess, but
15 I won't.

16 A. Well, I can guess probably better than you.
17 Just a little over 6-foot, 6-foot, 6-foot one, right in
18 that vicinity, in between the two. Weigh about 270.

19 Q. Has your weight changed significantly at all
20 since July 10, 2016?

21 A. No, it hasn't.

22 Q. And I know you have a stepson Luca. Do you
23 have any children of your own?

24 A. I do.

25 Q. Can you name them and just tell me their age?

Jon Luer
4/26/2018

Page 12

1 A. Kirsten Elizabeth Luer, daughter from my first
2 marriage, she was born in 1988. I have a son Jonathan
3 Adam Luer, also from my first marriage. He was born in
4 1991.

5 Q. And they were not present -- your two children
6 from your first marriage, they were not present during
7 the incident, correct?

8 A. That's correct.

9 Q. Were they there that evening?

10 A. They were not.

11 Q. And you were married once before, correct?

12 A. Yes, I was.

13 Q. From when to when? Years are fine.

14 A. Married in 1984, divorce was finalized in the
15 year 2000.

16 Q. And what is your ex-wife's name?

17 A. Christine Marie Luer.

18 Q. She still goes by Luer?

19 A. She does.

20 Q. Thank you. And can you just tell me briefly
21 your education? I'm from St. Louis so I'm going to ask,
22 where did you go to high school?

23 A. Lindbergh High School, graduated in 1979.

24 Q. And then how about college?

25 A. Afterwards I attended the University of

Jon Luer
4/26/2018

Page 13

1 Missouri at Rolla. That name is now Missouri University
2 of Science and Technology. Graduated with a degree in
3 civil engineering in the year 1984.

4 Q. And any postgraduate work?

5 A. No.

6 Q. And you're a PE now, correct?

7 A. Yes.

8 Q. Professional engineer?

9 A. That's what it stands for, yes.

10 Q. Just briefly describe, to earn that
11 certification tell me what it takes.

12 A. Once you graduate from an accredited college
13 you have to take an exam. It's a whole day exam to
14 basically show that you've mastered the fundamentals of
15 engineering. It's science, math, chemistry, computer
16 engineering. And then you enter the working world and
17 work under the direction of somebody who already is a
18 licensed professional engineer for four years. And at
19 that time you go back and take part two of the
20 examination and that's the principles and practices
21 component to show that you can apply what you've learned
22 in school and on the job to everyday problem solving.

23 Q. And you've kept up that certification?

24 A. I have.

25 Q. What does it take every year? Does it take

Jon Luer
4/26/2018

Page 14

1 some continuing education every year or every two years?

2 A. It does. The renewal cycle for the license is
3 on in a two-year period, and in that two-year period
4 you're required to have a minimum of 30 hours of
5 continuing education.

6 Q. Do you have any other training?

7 A. For the business that I'm in, I attended a
8 variety of number of workshops and gotten a variety
9 number of certifications.

10 Q. What other certifications?

11 A. I've gotten one from the Missouri Department of
12 Transportation to manage federally-funded government
13 projects, and other ones to supervise the construction
14 portion of projects, make sure we understand the
15 documentations that are necessary.

16 Q. So you're very familiar with grants, that tape
17 of thing?

18 A. Grants and then audits, review the federal
19 money is being spent properly.

20 Q. Any other training or certifications?

21 A. There's some technical training that I've been
22 to to enhance abilities to do design, like how to
23 establish the appropriate lengths of guardrail need on
24 sides of highways, stuff like that. It tends to get
25 pretty specialized.

Jon Luer
4/26/2018

Page 15

1 Q. So you're currently employed by ABNA
2 Engineering, correct?

3 A. That is correct.

4 Q. Is that primarily a highway construction firm?

5 A. It's a civil engineering consulting firm.
6 Their clients are very predominantly government agencies,
7 cities, counties, some state DOT's, and Illinois would
8 also include Illinois toll way authority. So it's a lot
9 of government clients. But there's also some private
10 clients. Monsanto would fall into that category and a
11 few other ones too. The jobs that I'm assigned to
12 predominantly have a large component of street and
13 highway design to them.

14 Q. Do you work down an Lindell at their office on
15 Lindell?

16 A. I do.

17 Q. They have offices world wide or employees world
18 wide?

19 A. Just Illinois and Missouri.

20 Q. Do you ever get to work from home?

21 A. Rarely. If I'm out of the office attending a
22 meeting or something and it's close to the end of the
23 day, I don't have to drive into the city. If I'm out in
24 the county I can go home and work the remaining couple of
25 hours from the house. I never work a full day from the

Jon Luer
4/26/2018

Page 16

1 house though.

2 Q. So you're a transportation manager, is your
3 title at ABNA, correct?

4 A. Yes.

5 Q. Describe briefly for me what those duties
6 entail.

7 A. So I worked up to that position coming through
8 the ranks of doing it as highway designer and then
9 project manager. I still do some project manager, but as
10 manager of the department I also oversee other people
11 that have the duties I once held that now report to me
12 from down below. So they are also civil engineers,
13 design technicians, and other project managers. So I
14 oversee them, the projects they're doing, as well as I
15 still manage some projects myself.

16 Q. When the title is transportation manager, is
17 that the management of the transportation of the company?

18 A. No. If it were more fully described it would
19 be transportation engineering department manager. So the
20 people that I oversee are engineers overseeing the design
21 of highway projects, pretty much just the design.
22 Sometimes there's a survey element. Sometimes there is a
23 construction and inspection and management element.

24 Q. How long have you been employed there?

25 A. Since 2010.

Jon Luer
4/26/2018

Page 17

1 Q. Let's go backwards, your previous employment.

2 Who was your previous employer?

3 A. Going backwards, prior to that it was another
4 consulting engineering company called Burns & McDonnell,
5 M-C-D-O-N-N-E-L-L, and I was with them from 1992 to 2010.
6 Prior to that I worked for the Missouri Department of
7 Transportation, now MoDOT or -- yeah, that is the current
8 name. MHTD was the previous name. And with them from
9 graduation with college in 1984 until 1992. So this is
10 my third employment.

11 Q. Burns & McDonnell, huge engineering firm,
12 right?

13 A. That one is international.

14 Q. How many employees would you say they had in
15 2010?

16 A. At that time 3,000.

17 Q. And your duties at Burns & McDonnell similar to
18 what you're doing now?

19 A. At the end they were similar. I was there
20 17 years, and so I worked up the ranks. They initially
21 hired me just as an engineering to produce highway plans,
22 specifications, cost estimates, and worked up to
23 managing, you know, the assistant manager on projects
24 managing projects, and at the very end I was a department
25 manager overseeing others that prepared that which are

Jon Luer
4/26/2018

Page 18

1 the exact same duties I currently hold with ABNA.

2 Q. And then at MoDOT what were your duties?

3 A. I had two different main assignments. My first
4 several years there I was an inspector for materials and
5 aggregates, concrete and asphalt. About three and a half
6 years of doing that. And then the last, roughly, five
7 years I had moved in and taken an office job and was
8 responsible for designing highways being at a drafting
9 board.

10 Q. What personal hobbies do you have?

11 MR. PRAISS: Object to the form, relevance.

12 Q. (By Mr. Becker) You can answer.

13 A. I would say there's probably two -- there are
14 three. I do like to travel, I do love history, and I do
15 read a lot of books related to history. And when I do
16 travel I try to mingle the two together, visit places
17 that I've read about. And my other one is I'm a firearms
18 enthusiast and a gun collector and have a license to
19 actually deal in firearms. That was to go hand in hand.

20 MR. BECKER: I'm just going to keep the
21 sequence, so this will be 23.

22 (Exhibit 23 was marked for identification.)

23 Q. (By Mr. Becker) I've handed you what's been
24 marked deposition Exhibit 23. And do you recognize this
25 document?

Jon Luer
4/26/2018

Page 19

1 A. I do.

2 Q. And what is it?

3 A. This is a copy of my federal firearms license.

4 Q. And it indicates the name is Waffenhaus
5 W-A-F-F-E-N-H-A-U-S, correct?

6 A. Correct.

7 Q. What is that? The name of your company?

8 A. Yes. I don't have an LLC or have an
9 incorporated firm. I found that when filing going
10 through the process of buying and selling firearms, if I
11 deal with wholesalers, if people know that you're
12 affiliated or think you're affiliated with a business you
13 get treated with a little bit more respect versus being a
14 basement gun dealer. So I established this name. It's
15 German based upon my family origins. Waffen is just the
16 weapons house, is how it would translate. I stayed with
17 it ever since, and that name is registered as a
18 fictitious name with the state of Missouri.

19 Q. And then the type of license in the center
20 there, it indicates 01-dealer in firearms other than
21 destructive devices, correct?

22 A. Correct.

23 Q. And what does that mean?

24 A. This is the most common type of federal
25 firearms license that is issued, and it basically is the

Jon Luer
4/26/2018

Page 20

1 same one you would find in a general retail store. And
2 it allows you to buy and sell through the mail weapons
3 but not machine guns or silencers or anything that would
4 fall in the destructive device categories, the standard
5 weapon. If I do sell to any private individual, they
6 have to fill out a federal 4473 form and have to go
7 through the FBI background check called NICS, National
8 Instant Crime Check System.

9 Q. Is it strictly a hobby or do you profit from
10 it?

11 A. I do profit from it. I don't sell many
12 firearms to others, but I do sell a few here, and I do
13 charge a small fee for the service of doing the
14 transaction and the background check.

15 Q. So you primarily collect, correct?

16 A. I am primarily a collector.

17 Q. To be clear, I know you were talking about the
18 mail. Does this license permit you to possess automatic
19 weapons?

20 A. That one does not.

21 Q. And does it permit you to possess a rifle or a
22 weapon that has a very large magazine, something over 15
23 or 20 rounds?

24 A. Actually, there's no restrictions for anybody
25 on that, private individual or license there's no

Jon Luer
4/26/2018

Page 21

1 restriction.

2 Q. There's no federal restriction either?

3 A. No, there is not.

4 Q. All right. And how many guns do you own?

5 Strike that. Let me ask you, on July 10, 2016, how many
6 guns did you own, roughly?

7 A. I would estimate 150.

8 Q. And some of those are historical weapons,
9 correct?

10 A. Virtually all of them. Not exclusively but 90,
11 95 percent would be in that category. When I say
12 historical, made before 19 -- 1945 or earlier.

13 Q. And how many of those 150 guns would be
14 operable?

15 A. I would say the majority of them are operable.
16 If you could get the ammunition for them they would fire.

17 Q. And do you typically fire each of your weapons?

18 A. No.

19 Q. Or is it just a collection?

20 A. Collection. I do fire some, but I have -- the
21 vast majority have never been fired.

22 Q. I see that Exhibit 23, it expired January 1,
23 2017. Did you renew it?

24 A. It is renewed and it's active, but this was the
25 copy that was active at the time of the event in

Jon Luer
4/26/2018

Page 22

1 question.

2 Q. And then so would your current license expire
3 what? January 1, 2020?

4 A. These are three-year licenses so that would be,
5 yeah, 20.

6 Q. How much does it cost to obtain this license?

7 A. It is \$90 for a three-year cycle.

8 Q. Is it difficult to obtain?

9 A. Very.

10 Q. And why do you say that?

11 A. There is an intense scrutiny that I have to go
12 through, finger printing, FBI background checks,
13 photographing, where they want to make sure the people
14 getting this class of license they're not falling into
15 any high risk category. That's the part that the, I'll
16 put it back on firearms goes through. And then they also
17 make sure that there's no problems with any state or
18 local laws that are being violated. I had to get waivers
19 from St. Louis county because this is a business license
20 and I'm in a residential area. Make sure there's no
21 zoning conflict, so I had to get that done. I had to get
22 a sales tax number filled out with the state of Missouri,
23 Department of Revenue, that if I were to sell anything
24 retail they would collect sales tax. I had to get the
25 name Waffenhaus filed as a fictitious name. There's a

Jon Luer
4/26/2018

Page 23

1 lot of paperwork to go through. But the hardest one is
2 just getting it through the ATF and then keeping it
3 active. I do go through an audit every three years where
4 they come into my residence and they go through all of my
5 books, everything in my possession, and make sure
6 everything in my possession has been logged in through my
7 acquisition distribution record, logged out through the
8 same record, or if it's logged in and not logged out that
9 it's in my possession.

10 Q. When the ATF comes to your home how long are
11 they there?

12 A. I've had audits as short as an hour and a half
13 and I've had them as long as two and a half hours.

14 MR. PRAISS: Carl, if you don't mind me
15 interrupting, we've been going for about a half hour, and
16 we haven't even gotten close to the subject. I don't
17 want to start objecting on relevance, but can we just
18 focus in on what's happened in this incident?

19 MR. BECKER: I have some more questions,
20 but yeah.

21 Q. (By Mr. Becker) How long have you had the
22 license?

23 A. Since I was 21, so that would be 1981. I
24 initially had a Curios license, and then about three to
25 six years later I had it converted to the 01 dealer

Jon Luer
4/26/2018

Page 24

1 license.

2 Q. With respect to any type of firearm training of
3 firing any firearms, do you have any training in that
4 regard?

5 A. I do. I have multiple training. The one that
6 was the most formal and documented, military, going
7 through ROTC, I had firearms training. I have a
8 concealed carry permit, and that required a full day of
9 training including partial legal training and partial
10 firearms proficiency training. And then I'm also a
11 member, currently president, of a German shooting club
12 called Schuetzenverein.

13 Q. Can you spell that for the court reporter,
14 please?

15 A. S-C-H-U-E-T-Z-E-N-V-E-R-E-I-N.

16 Q. And any other training then with firearms?

17 A. Nothing that I can think of at the moment.

18 Q. Do you shoot often at ranges and so forth?

19 A. I do.

20 Q. Do you hunt?

21 A. I do.

22 Q. And how frequently do you hunt?

23 A. One weekend a year, and it's deer season.

24 Q. And that's all for the hunting?

25 A. That's the only thing I hunt.

Jon Luer
4/26/2018

Page 25

1 Q. And then how frequently would you say you go to
2 a range?

3 A. To shoot high power weapons it's almost never,
4 but through the Schuetzenverein we do shoot once a month.
5 But they're airguns, so they're high grade, Olympic
6 quality airguns. It's competitive shooting.

7 Q. Do you have any training in martial arts?

8 A. I do not.

9 Q. You mentioned ROTC. Did you complete ROTC at
10 Rolla?

11 A. I did not. I completed three years of ROTC at
12 Rolla.

13 Q. And so you did not earn a commission, correct?

14 A. I did not. I did sign up for military service,
15 but I failed my physical based upon an inability to hear
16 high frequencies and I did not get my commission.

17 Q. Do you keep a diary?

18 A. I do not.

19 Q. On the date of the incident how was your
20 memory? Do you consider it normal?

21 MR. PRAISS: Object to the form of the
22 question.

23 A. I would consider it an average day. It was the
24 day I went to pick my son up at the airport, so I was
25 looking forward to that. Nothing that would inhibit my

Jon Luer
4/26/2018

Page 26

1 memory that I could think of. I remember the incident
2 pretty well.

3 Q. But on that date you had no memory issues,
4 correct?

5 A. No.

6 Q. And then how was your eyesight on that date?

7 A. Like it is today. I wear reading glasses, but
8 other than that I see just fine.

9 Q. So your vision at a distance is 20/20 you
10 believe?

11 A. I would not say 20/20, but I can drive without
12 corrected vision, so it's at least 20/40.

13 Q. Will you go to the firing range and hunt
14 without glasses?

15 A. I do.

16 Q. And your hearing, you mentioned that you had
17 difficulty with high frequency from an ROTC testing,
18 correct?

19 A. Yeah, 3,000 hertz was -- once it gets above
20 that, start experiencing hearing loss.

21 Q. So you just don't hear those high pitched
22 sounds then?

23 A. It's not a definitive it stops at one level.
24 Once you get to that level all of a sudden I need to have
25 a greater number of decibels or a loudness has to be

Jon Luer
4/26/2018

Page 27

1 increased, but eventually you get to a certain point it
2 doesn't matter how loud it is I don't hear it at all.
3 But once you're below 3,000 I hear just fine.

4 Q. Your hearing on July 10, 2016, was fine?

5 A. It was.

6 Q. You don't wear hearing aids, correct?

7 A. I do not.

8 Q. Have you had any treatment from doctors
9 regarding your hearing?

10 A. I have not. I've been to people to inquire
11 about hearing aids, but they said all they do is make the
12 tones louder. And it doesn't matter how loud they are,
13 if you're at 5,000 hertz I won't hear it.

14 Q. You are not making a claim for any emotional
15 distress; is that correct?

16 A. I am not.

17 Q. The night or the morning of the incident
18 July 10, 2016, at about 2:30 in the morning who was
19 present in your home besides yourself?

20 A. I didn't awaken until 3:00 in the morning, so I
21 can't talk about what happened at 1:00, 2:00. I just
22 know that I had gone to bed, and I'll assume that the
23 same people were in the house at the time I woke up. So
24 3:00 in the morning it was my stepson Luca, my wife
25 Andrea, and myself.

Jon Luer
4/26/2018

Page 28

1 Q. And you have a cat, right?

2 A. We have cats, two.

3 Q. So on July 10, 2016, you had two cats; is that
4 correct?

5 A. Yes.

6 Q. No dogs?

7 A. Not living with us.

8 Q. Any other animals in the house?

9 A. No.

10 Q. And your bedroom, your master bedroom, is
11 located in what portion of the home?

12 A. It's at the extreme southwestern corner of the
13 house.

14 Q. And at 3:00 in the morning was your wife also
15 in that bedroom?

16 A. We were in bed together.

17 Q. And where is Luca's bedroom in the home?

18 A. It's the center of three bedrooms that are in a
19 row, so it's the western edge of the house. So either
20 the north or the south so let's call it the center
21 western edge.

22 Q. So does your bedroom window face south or west?

23 A. South.

24 Q. And Luca's bedroom window faces north?

25 A. West.

Jon Luer
4/26/2018

Page 29

1 Q. The cats, do they tend to roam around at night?

2 A. They have roam of the house except for the
3 bedrooms. We keep the bedroom doors closed so we don't
4 have cat hair on the beds.

5 Q. Do they typically roam around at night like
6 cats do?

7 A. Yes, except for those closed areas, they have
8 the run of the house.

9 Q. And when they do sleep where do they sleep at,
10 typically?

11 A. They have a variety of places, but we have the
12 one gray cat specifically likes to sleep on the top of
13 the sofa in the living room next to the window, maybe
14 just to keep an eye what's happening outside. Hard to
15 say what's going through a cat's mind.

16 Q. And the living room window faces north?

17 A. It does.

18 Q. Prior to Tuesday, April 24, 2018, besides the
19 incident, had you ever come into contact with Defendant
20 Selz or Defendant Clinton?

21 A. This week Tuesday, no, just that night.

22 Q. Did you ever speak in person with Sergeant
23 Vaughn?

24 A. I did over the phone.

25 Q. But never in person face to face, correct?

Jon Luer
4/26/2018

Page 30

1 A. No, just over the phone.

2 Q. How about Captain Lawson, have you ever met him
3 prior to Tuesday, April 24, 2018?

4 A. Did not.

5 Q. How about Sergeant Dale Johnson, have you ever
6 met her?

7 A. I don't know the name.

8 Q. Amin, the cab driver, do you know his last
9 name?

10 A. I do not.

11 Q. And do you have any contact information, where
12 he lives, his phone number?

13 A. I do not.

14 Q. And have you had any other contact with him
15 other than what you've described the morning of the
16 incident?

17 A. No. I've had no conversation with him, and I
18 only know of his name and phone number because of the
19 recording that I've heard through this discovery process.

20 Q. And the closest you got to the cab driver that
21 morning was about 20, 30 feet, correct?

22 A. I was approximately -- we were not in close
23 proximity to each other. He was maybe half way up the
24 driveway, and I was standing in front of the garage door.

25 Q. Can you describe the cab driver to me, male,

1 his height, weight, race?

2 A. He was a male, petite. He spoke with an
3 accent. I would have guessed, and I'm not an expert on
4 accents, but maybe an Indian or Pakistani-style accent.

5 Q. When you say petite, 5' 5", something like
6 that?

7 A. He was short. It would be hard for me to guess
8 at a height, but definitely shorter than me but also very
9 thin, slender build.

10 Q. How about facial hair?

11 A. I can't recall that kind of detail.

12 Q. Glasses?

13 A. Don't recall.

14 Q. So his skin color was brown?

15 A. I would not -- I can't say that for sure.

16 Q. Just so we're clear on the record because there
17 might have been some confusion on Tuesday, the location
18 of your home, the front faces north, correct?

19 A. It does.

20 Q. The rear faces south?

21 A. That's correct.

22 Q. You've already described Luca's bedroom as a
23 western facing window, correct?

24 A. Yes.

25 Q. And yours is a southern facing window, your

Jon Luer
4/26/2018

Page 32

1 bedroom?

2 A. It is.

3 Q. And the living room would be in the northeast
4 corner, more or less, of the home, correct?

5 A. I would call it's in the center of the home
6 northern facing. If you were to look at the frontal
7 picture of the house which was shown previously, if
8 you're looking at the front door, the window immediately
9 to the right of that front door is the living room. The
10 window immediately to the left is the dining room.

11 Q. And the garage is on the eastern side of the
12 home, correct?

13 A. It is.

14 Q. When you woke up that morning at 3:00, I
15 believe you said, correct?

16 A. Yes, sir, I'm pretty sure.

17 Q. What were you wearing?

18 A. I was just sleeping in my underwear which is
19 rather normal, and I did hear the noises. I was going to
20 investigate. I did not know the noises were coming from
21 within the house, otherwise I would have put some clothes
22 on. I was planning on going to the front of the house
23 and look out the window to see what was going on.

24 Q. Could you be very specific as to what you were
25 wearing? When you say underwear, what do you mean?

Jon Luer
4/26/2018

Page 33

1 A. Boxer shorts. I don't know exactly which pair
2 I had on, but it was just tight fitting underwear.

3 Q. Definitely boxers?

4 A. No, they were probably whitey tighties or a
5 color version thereof.

6 Q. Or maybe boxers too?

7 A. I don't think they were boxers.

8 Q. Just so it's clear, when you say tighty whities
9 you mean the white standard briefs?

10 A. Yeah, but I also have some that are colorized.
11 I don't know exactly which one I had on. I can say I had
12 nothing else on, no socks or anything.

13 Q. And no shirt?

14 A. No shirt.

15 Q. But you don't recall if the briefs or white or
16 colored; is that correct?

17 A. I do not.

18 MR. PRAISS: Object to the form, relevance.
19 Let's move on, please.

20 A. I do not recall.

21 Q. (By Mr. Becker) Thank you. What time did Luca
22 arrive home?

23 A. So there was two arrivals for him. We picked
24 him up at the airport at 5:00. Amazingly enough he
25 didn't want to spend time with us. He wanted to go out

Jon Luer
4/26/2018

Page 34

1 with his friends. He left about 6:00. His friends had
2 picked him up and he was gone. He had just arrived from
3 an internal flight, so he was jet lagged. I guess that's
4 why he came back early. He was home at 10:00. My wife
5 and I were in the living room watching a movie at the
6 time. So we were very aware of the time that he arrived
7 home, and he went to bed. Later, I'm not sure exactly
8 what time it was, but after we finished the movie we
9 ourselves went to bed.

10 Q. Do you remember what movie it was?

11 A. Pleasantville.

12 Q. So when Luca returned home the second time
13 could you tell if he had been drinking?

14 A. Could not.

15 Q. One way or the other you couldn't tell,
16 correct?

17 A. I have no idea. He came in, hi, I'm here, went
18 to bed.

19 Q. And how did he arrive home the second time?

20 A. The friend who picked him up dropped him off.

21 Q. And what time did you go to bed that evening?

22 A. I can't say for sure. I would estimate though
23 11:00, 12:00.

24 Q. Would you say you fell asleep right away?

25 A. Yes.

Jon Luer
4/26/2018

Page 35

1 Q. And did you -- from 11:00 or 12:00 until
2 3:00 a.m. did you wake up at all?

3 A. I don't believe I did.

4 Q. Would you consider yourself a heavy sleeper?

5 A. Sound. I can be woken up, but generally small
6 noises and stuff don't arouse me.

7 Q. How about your wife, is she a heavy sleeper?

8 A. My experience is that she's a light sleeper.

9 Q. And how about Luca, is he a heavy sleeper?

10 A. I don't sleep with him, so it would be
11 difficult for me to answer that question.

12 Q. And around 2:30, 3:00 in the morning did you
13 hear the doorbell ring?

14 A. I did not.

15 Q. Was your doorbell operable at the time?

16 A. It was operable.

17 Q. And did you hear knocking at the front door
18 that morning?

19 A. There were noises that I heard. I couldn't
20 identify what or where they were from. And I hesitate to
21 speculate what noise it was that woke me up.

22 Q. So you do not know which noise woke you up,
23 correct?

24 A. That's correct.

25 Q. And did you ever hear the officers calling out

Jon Luer
4/26/2018

Page 36

1 St. Louis county police or county police, something to
2 that effect?

3 A. I did, but only as the confrontation happened.

4 Q. And when you say confrontation, you mean when
5 you --

6 A. Face to face, when we met face to face was the
7 first time, and it was very clearly annunciated and I
8 heard it very well, but prior to that the noises and
9 stuff I heard I didn't know if they were inside the house
10 or outside.

11 Q. The noises you heard, can you describe those
12 please?

13 A. My speculation is voices and banging, but no
14 voices I could understand, no banging that I could
15 precisely identify the location. It wasn't close by. We
16 were sleeping with the windows open. I didn't know if
17 they were coming from outside. That's why I was making
18 my way to the window to look outdoors to see if something
19 was happening with one of the neighbors. It could be,
20 but it's purely my speculation, that the noise was when
21 they had come across a locked door in the basement, that
22 they were banging on that and announcing who they were.
23 That's probably one of the last times that -- if they
24 were banging outside the door I wouldn't have heard that.
25 I don't know if they were doing any more banging since

Jon Luer
4/26/2018

Page 37

1 that time.

2 Q. But you're not certain of that, the banging on
3 the door in the basement?

4 A. I am not. I am not. That's purely speculation
5 on my part, that they were banging on the basement door
6 and announcing who they were.

7 Q. What windows were open that night?

8 A. The only one I can say for certainty was our
9 bedroom window.

10 Q. You only have one bedroom window; is that
11 correct?

12 A. We do.

13 Q. So to be clear, did you hear officers knocking
14 on the west side of the house?

15 A. Did not.

16 Q. Did you hear officers calling out St. Louis
17 county police or county police, something to that effect
18 on the west side of the house?

19 A. I didn't hear that called out until the
20 confrontation.

21 Q. And so on the south side of the home you heard
22 no officers calling out, either county police or St.
23 Louis county police?

24 A. I didn't hear anything, no.

25 Q. And how about any knocking on the south side of

1 the home, did you hear that?

2 A. I did not.

3 Q. Did you hear officers calling out St. Louis
4 county police or county police at the pedestrian door
5 leading into the house from the garage?

6 A. I did not.

7 Q. And did you hear voices in the basement around
8 that time?

9 A. Well, it's hard to say where voices emanated
10 from and what time they emanated from. I will just say I
11 heard voices and noises while I laid in bed. It was
12 enough to wake my wife and myself up, but I cannot say
13 location, you know, the origin or what was being said.
14 So I got up to investigate.

15 Q. So what do you believe finally woke you up?

16 A. It's my speculation at the time that they were
17 -- had come across the locked room in the basement and
18 they were knocking on that door and announcing who they
19 were in case there was somebody inside, they would come
20 out.

21 Q. When you say knocking on the basement door --

22 A. This is the door to the secured room in the
23 basement where my firearms are stored.

24 Q. And so when you did wake up what did you do
25 next?

1 A. Well, my wife and I looked at each other and
2 acknowledged something was wrong. I don't remember the
3 exact words we had. I immediately just got out of bed.
4 I do keep a loaded handgun, but I didn't -- if I thought
5 there was intruders in the house I may have taken it, but
6 I didn't realize that to be the case, therefore I just
7 got out of bed, didn't change anything, didn't put any
8 clothes on, didn't grab anything, just to walk out to
9 look out the window, and that's when the confrontation
10 took place.

11 Q. The handgun is easily accessible, correct?

12 A. Yes.

13 Q. When you say you looked at your wife, was there
14 lighting in the room at the time?

15 A. We do keep the house minimally lit at all
16 times, night lights and stuff like that. And there's
17 also plenty of light that comes in from the outside.
18 There's a school property behind us that's fairly well
19 lit, and there's a lot of overflow or trespass lighting
20 from the lights from the school drive that get into our
21 house and yard.

22 Q. Have you had problems with trespassers from the
23 school?

24 A. No.

25 Q. And so you came out of your bedroom, and from

1 the bedroom door to where you first saw the officers,
2 what is that distance roughly?

3 A. Three feet, four feet.

4 Q. So the hallway is a short hallway?

5 A. It's a T-shaped hallway. The bedrooms are
6 along what would be the cross of the T, left, center, and
7 right. And then the stem of the T is approximately eight
8 feet. So I would have been at the apex of where the two
9 parts of the T come together, and the officers were at
10 the other end or the base of the T about an 8-foot
11 distance.

12 Q. Three bedroom house?

13 A. It is.

14 Q. And when you first saw the officers where were
15 they standing?

16 A. They were standing right at the entrance way to
17 the hallway where the family room and corner of the
18 family room where the hallway begins. That's about an
19 8-foot distance. They had not begun down the hallway at
20 that point.

21 Q. Describe what they were doing right when you
22 first saw them?

23 A. As soon as I turned the corner I just saw the
24 weapons and flashlights pointed at me, and they announced
25 themselves as the St. Louis county police.

1 Q. Were both officers holding flashlights?

2 A. They were, left hand.

3 Q. In the left hand, each of them?

4 A. Yes.

5 Q. And firearms in their right hands?

6 A. Right hand, correct, extended.

7 Q. Describe how they were pointing them at you?

8 A. Well, the right hand was extended. Left hand
9 also appeared to be fairly extended but at a raised
10 position. So it was a slightly offset elevation between
11 the two. The officers were in a staggered formation
12 where they could easily have, if they were going to go
13 down the hallway, fallen right behind each other. But at
14 that position they had the ability of side by side
15 protection of one another.

16 Q. Do you remember which officer was more in the
17 front?

18 A. I could not tell you.

19 Q. Are you familiar with a low ready position?

20 A. I am only through the process of discovery.

21 Q. Would you describe to me in your own words what
22 your understanding of a low ready position is?

23 A. A low ready position is that the handgun is
24 unholstered. It is in the firing hand, but the weapon is
25 held against the chest with muzzle pointed down to the

1 left.

2 Q. Do you understand what the sul position is?

3 A. I do not.

4 Q. That's S-U-L. And how were the officers
5 holding their flashlight? In what position?

6 A. It appeared to me it was in their left hand,
7 left hand a little bit above the firing hand, so they
8 were not at the same elevation, and then directed towards
9 me. I would assume arm extended. I can't say that
10 100 percent, but it appears -- my recollection is that
11 arm was also extended, just not extended completely
12 forward. It was more forward and left at the same time.

13 Q. So would you say the flashlights were held at
14 about shoulder level then?

15 A. Higher than firearm level. I could not tell
16 you exactly what that was.

17 Q. Were the flashlights being shined in your eyes?

18 A. They were being shined in my direction. They
19 weren't shined in my eye because I was still able to
20 clearly see the silhouette of the two officers and their
21 position. And there were other lights on in the house
22 from behind them also, further helping me identify their
23 stance and position.

24 Q. When you first saw them could you clearly
25 identify them as police officers?

Jon Luer
4/26/2018

Page 43

1 A. They had uniforms on, and they were identifying
2 themselves as police officers. Once the guns were
3 holstered, flashlights went down, and we got closer they
4 definitely were uniformed St. Louis police officers.

5 Q. How long did it take you to make that
6 determination?

7 A. Well, not too long. We went through a very
8 short round of questioning about me being armed and
9 weapons in the house, and once we finished that the
10 tension eased drastically at that point. The flashlights
11 and weapons lowered and we could come closer and we began
12 further dialog.

13 Q. So that time period, how long would you say
14 that is?

15 A. 15 seconds. Wasn't that long. Estimation.

16 Q. And what -- who spoke first?

17 A. The police officers. They announced who they
18 were.

19 Q. What did they say?

20 A. St. Louis county police. I'm frozen at this
21 time, standing, hands out to the side, clearly palms
22 open, and they asked if I was armed. I informed them I
23 was not armed. And they asked if I had weapons in the
24 house, and stuttered a little bit as I was trying to
25 answer, yes, I have arms in the house, but where,

Jon Luer
4/26/2018

Page 44

1 multiple places. That was the end of that line of
2 questioning. Then it moved you had any weapons near you,
3 correct?

4 A. No, if I had weapons in the house is how I
5 recall it.

6 Q. And when you say you had your hands out to the
7 side, do you mean at your waist with your palms facing
8 them?

9 A. Yeah, 4:00 and 7:00 position. They were
10 lowered and extended.

11 Q. And then it was at that point, are you
12 testifying, that they lowered their weapons?

13 A. After we finished the line of discussion about
14 the firearms, then the tension dropped and they hosted
15 their weapons and we began discussion of why they were
16 there.

17 Q. And then what did they tell you?

18 A. I was then asked where is my son, was the next
19 words after that. And he was right behind me sleeping in
20 the room. So I went and knocked on his door, it then
21 opened, went in, didn't wait for him to ask. He was
22 fully awake laying in bed as he also was awakened by the
23 noise, and I asked him to come out.

24 Q. Why did you ask him to come out?

25 A. I didn't know at that point. I just knew where

Jon Luer
4/26/2018

Page 45

1 is my son and I produced him.

2 Q. And what was -- Luca, your son, correct?

3 A. Yes.

4 Q. What was Luca wearing?

5 A. He was dressed very similar to myself, nothing
6 but his underwear, shorts.

7 Q. Were they boxers or briefs?

8 A. I'm sorry, I couldn't tell you. It was one or
9 the other, yes, but that was all.

10 Q. Do you remember what color?

11 A. I do not.

12 Q. So you got Luca from his room and then what
13 happened?

14 A. So now we're both standing at that same
15 position in the hallway where the two parts of the T
16 would come together, and they ask him to put some clothes
17 on and accompany them outside. I put some clothes on
18 also and also went outside at the same time.

19 Q. At the time when you first made contact with
20 the police officers where was your wife?

21 A. She was in bed.

22 Q. So she did not witness the initial contact; is
23 that correct?

24 A. Unless there was something she could have seen
25 through an open door, no.

Jon Luer
4/26/2018

Page 46

1 Q. And when you woke Luca up -- strike that. When
2 you entered Luca's room was the door completely closed?

3 A. It was.

4 Q. Was Luca sleeping?

5 A. Not when I went in.

6 Q. Did Luca say anything to you when you entered
7 his room?

8 A. I don't recall him saying anything.

9 Q. What did you say to him?

10 A. Luca, get out here, something to that effect,
11 some attempt. The exact words I couldn't say. I told
12 him get out here.

13 Q. Did the officers ask you who else was in the
14 home?

15 A. They did not.

16 MR. BECKER: We've been going about an
17 hour. Why don't we take a short break.

18 (A short break was taken.)

19 (Exhibit 9 was previously marked for
20 identification.)

21 Q. (By Mr. Becker) Back on the record. We took
22 about a ten-minute break. Mr. Luer, I've handed you what
23 has previously been marked Exhibit 9. Do you recognize
24 that document?

25 A. I definitely remember filling out the

Jon Luer
4/26/2018

Page 47

1 complaint. I don't remember if I saw it in this format
2 or not, but the data appears to be accurate.

3 Q. Have you since filing it seen it in this
4 format?

5 A. I can't say for sure if I have or not.

6 Q. And this is the document that you previously
7 testified that you essentially cut and pasted your
8 account of the events, correct?

9 A. That's correct.

10 Q. And when you filed this how did you determine
11 where to file this?

12 A. It was just doing a little bit of search on the
13 internet, and I believe my wife had found the link to the
14 St. Louis county website where this could be submitted
15 and then I acted upon that.

16 Q. And in this document, Exhibit 9, are you asking
17 for a particular remedy or action to be taken by the
18 police department?

19 A. I was not. It was informing the police of what
20 happened. I was not happy with the way things turned
21 out, and I was unhappy that I couldn't get a copy of the
22 report for that night to inform me of the rest of the
23 details. That's why I went this route.

24 Q. And besides what you've already testified to,
25 when you say you were unhappy with the outcome of that

Jon Luer
4/26/2018

Page 48

1 night, what do you mean?

2 A. Well, I almost died, and after I thought about
3 it later, two of us almost died. The place where Luca
4 was sleeping in that center bedroom was directly behind
5 where I was standing. If any shots had been fired in my
6 direction, those that would not have hit me would have
7 gone through that hollow wall into the bed where Luca was
8 sleeping which was positioned directly the other side of
9 that with his head right at the wall. And there could
10 have been two casualties that night and that really
11 distressed me.

12 Q. You came to realize that after that evening?

13 A. Yes, I did.

14 Q. At what point did you realize that?

15 A. It was shortly. It was maybe later that night
16 or the next day. The more I thought about it the more
17 bothered I was by it. And that's why I attempted to get
18 copies of what was going on, what justified this.
19 Obviously I heard just a part of what happened and I'm
20 just trying to fill in the holes.

21 Q. So let's back up again to you got Luca out of
22 his room, and he cooperated, correct?

23 A. He did.

24 Q. And then what happened after that?

25 A. He returned to his room to get dressed. I

1 returned to my room to get dressed. My wife also got
2 dressed at the time. The three of us accompany the two
3 officers out the front door.

4 Q. Excuse me, let me stop you there. When you
5 went to get dressed, when Luca went to get dressed in his
6 bedroom, did the officers follow you?

7 A. They did not.

8 Q. Go ahead.

9 A. We rejoined there in the hallway, and the five
10 of us walked together out to the front door, made a
11 right, went to just in front of the garage door which was
12 closed at that time, the car garage door, not the main
13 garage door.

14 Q. Then what happened?

15 A. This is when the taxi driver joined us or
16 attempted to join us. He came in our direction.

17 Q. Let me stop you there. Where did you first see
18 him?

19 A. I was at the end of the driveway or just
20 stepping on to the end of the driveway.

21 Q. And when you say the end of the driveway,
22 toward the street you mean?

23 A. The house end of the driveway.

24 Q. So near your garage then?

25 A. Correct.

Jon Luer
4/26/2018

Page 50

1 Q. Were there any vehicles parked in your
2 driveway?

3 A. There was a white pickup truck parked on the
4 driveway. It's a double wide drive, and it was on the
5 eastern side, I believe backed in so it would be facing
6 outwards.

7 Q. Is that your vehicle?

8 A. It's my wife's vehicle.

9 Q. Were there any vehicles parked in the garage
10 that night?

11 A. Yes, there was my primary vehicle, Toyota
12 Camry.

13 Q. It's a two-car garage, correct?

14 A. It is.

15 Q. Do you park the Camry in the center of the
16 garage or to one side?

17 A. Center.

18 Q. So you're at the garage. You first see the cab
19 driver, and he's where?

20 A. He's approaching from the street coming towards
21 us, but he never makes contact. He stops short of coming
22 all the way up the driveway. He comes about half way up
23 the driveway.

24 Q. How long is your driveway, roughly?

25 A. Two car lengths, so 40 feet.

1 Q. Did you see his cab?

2 A. I saw a vehicle I could not recognize. It was
3 parked slightly to the east of our driveway apron.
4 There's a street light directly there also, and he was in
5 front of that street light.

6 Q. But you could not tell whether it was a cab or
7 not?

8 A. I would only say it was a vehicle. Which way
9 he was faced, what manufacturer or what company he was
10 affiliated with I have no idea.

11 Q. Then what happened?

12 A. Well, he had positively identified my son,
13 "that's the one."

14 Q. Let me back up. When you use pronouns
15 sometimes it's kind of difficult to ascertain it later.
16 When you say he, you mean the cab driver?

17 A. The taxi driver thought that my son Luca was
18 definitely the person that was his fare that jumped
19 paying.

20 Q. What did he say?

21 A. I just remember it was like "that's him," to
22 this effect. Very short, no big long sentences.

23 Q. Was he pointing also?

24 A. I believe so, but I can't say that for sure.

25 Q. All right. What happened after that?

Jon Luer
4/26/2018

Page 52

1 A. Then we split into two groups. The one officer
2 remained outside with my -- with Luca and my wife. The
3 second officer went back into the house with me. I had
4 opened the garage door at this time, the car garage door,
5 and we walked over to the person garage door that had
6 been left open that night to see if there was any signs
7 of forced entry or stuff. There was no signs there.
8 Then we went into the house. So I'm accompanied just by
9 one officer at this time. And we went into Luca's room,
10 and did a very brief search of it just looking for a
11 white hat that the perpetrator was reported wearing.
12 Didn't look in any drawers or closets, just a brief
13 search of the room to see if something was out obvious.
14 Nothing was there.

15 We also did go down to the basement and just
16 opened allowed access to the one room that was reported
17 locked earlier just to make sure there was nobody hiding
18 in there and then we returned outside.

19 Q. So a lot of pronouns there, so I just want to
20 understand who's who.

21 A. Okay.

22 Q. The officer that remained outside with your
23 wife and son, who was that?

24 A. I don't want to say because I could get it
25 backwards. I would not positively know which one it was.

Jon Luer
4/26/2018

Page 53

1 I will just say there were two officers, one remained
2 outside, one with me.

3 Q. Obviously you don't know who went inside with
4 you, what officer, correct?

5 A. That is correct.

6 Q. And when the -- when one of the officers --
7 strike that. One of the officers offered to go through
8 your house with you, correct?

9 MR. PRAISS: Object to the form,
10 mischaracterizes prior testimony.

11 A. I don't remember it being phrased that way. I
12 know there was interest in looking for the white hat in
13 Luca's room, and I did not object to that search taking
14 place and I can accompanied that search.

15 Q. (By Mr. Becker) And you don't remember who that
16 officer was, correct?

17 A. I do not.

18 Q. And how was it phrased requesting -- the
19 officer's request to go back into the house?

20 A. I don't remember that.

21 Q. And you did go downstairs in the basement --

22 A. Yes.

23 Q. -- with the officer, correct?

24 A. Correct.

25 Q. All right. And what did you do down in the

Jon Luer
4/26/2018

Page 54

1 basement?

2 A. The only place we went to the basement was the
3 only area that was not accessible without opening a
4 secured door and unlocked the door and just a single
5 room, large room. It's a single room, and there was
6 nobody in that room. It was an unoccupied room.

7 Q. That's where your guns are kept, correct?

8 A. That's correct.

9 Q. Why did you open up that door?

10 A. There was -- the way it was presented there
11 could have been somebody in the house, an intruder, and
12 just to make sure that there was no intruder in the
13 house, they apparently thought somebody had taken refuge
14 in that room. It had been locked. It shouldn't have
15 happened, but what if I had left that door unlocked? So
16 this was a way to unlock it just to make sure that indeed
17 there was no intruder in the house.

18 Q. There was no one inside the room, correct?

19 A. There was not.

20 Q. Did you have discussion with the officer inside
21 that room?

22 A. I don't remember many words being said. I do
23 remember sort of the little bit of the reaction once they
24 saw the quantity of firearms like oh, wow, or something
25 like that. A little bit of shock but not real

Jon Luer
4/26/2018

Page 55

1 discussion.

2 Q. When you say they, you just mean one officer?

3 A. The one person who accompanied me.

4 Q. Again, you don't remember who that officer was?

5 A. Do not.

6 Q. And other than the exclamatory statement, any
7 further discussion in the gun room with the officer?

8 A. I don't recall any.

9 Q. After looking in the gun room then what
10 happened?

11 A. Resecured the room and went back and joined the
12 others outside.

13 Q. And then what happened?

14 A. While I had been away there was some discussion
15 going on I was not privy to. We had come back up, and I
16 believe I witnessed the very end of a sobriety test being
17 given to my son. Wasn't there for the whole thing, just
18 joining towards the end. It was apparent to me that they
19 did not at this point no longer believe my son to be the
20 perpetrator, that we were released to go back into our
21 house, and then the officers went out to have discussion
22 with the taxi driver which I was not privy to.

23 Q. And why do you believe your son was a suspect?

24 A. Well, he was -- he fit the rough age that was
25 initially identified as the -- that the cab driver had

Jon Luer
4/26/2018

Page 56

1 said his passenger was. So age wise was about right.
2 When he came out the front door he identified him
3 positively, so now there's two components to it. It
4 starts to fall apart quickly thereafter, that he could
5 pass the sobriety test, didn't have the white hat, he was
6 witnessed coming home at this time. And it just started
7 pretty rapidly, I think, becoming evident that they had
8 the wrong person.

9 Q. But did the officers tell you that they thought
10 your son was the suspect?

11 A. I don't remember them saying that. There was a
12 conversation where they said just give this guy \$55 and
13 we'll go away and pretend it never happened. So that
14 would lend me to believe that they did believe my son was
15 the suspect, was guilty of the larceny.

16 Q. Was there ever a point where the officers
17 stated to you or your wife or to Luca or the cab driver
18 that your son was not the suspect?

19 A. I don't remember ever being told he was no
20 longer a suspect.

21 Q. When you say a sobriety test was being
22 administered to Luca, can you describe that?

23 A. I just saw the very end of it, and I believe it
24 was where you have the eyes trace a finger path.

25 Q. So that Luca was being asked to follow the

1 | officer's finger?

2 A. I just saw the very end of it. It appeared to
3 be the style of test that was being administered.

4 Q. Do you know what that's called?

5 A. Sobriety test? No.

6 Q. Were there any other tests that you saw
7 administered to Luca?

8 A. No, because I had separated from the rest.

9 (Exhibit 10 was previously marked for
10 identification.)

11 Q. (By Mr. Becker) This is Exhibit 10, previously
12 been marked. And do you recognize this document?

13 A. I have never seen it before up close. It was
14 presented at the deposition on Tuesday. I just saw it
15 from across the table.

16 Q. That's the first time you seen this document?

17 A. Correct.

18 (Exhibit 11 was previously marked for
19 identification.)

20 Q. (By Mr. Becker) This is previously marked
21 Exhibit 11, and do you recognize that document?

22 A. I do not.

23 Q. Have you ever seen it before?

24 A. No, sir.

25 | (Exhibit 12 was previously marked for

Jon Luer
4/26/2018

Page 58

1 identification.)

2 Q. (By Mr. Becker) Previously marked Exhibit 12,
3 can you identify that?

4 A. This is the front northward facing exposure of
5 my house.

6 Q. And the vegetation immediately to the east of
7 the garage, what type of tree or bush is that?

8 A. At the extreme left, the large leafed plant is
9 a Magnolia tree, very heavily foliaged all times of the
10 year. And then the tall short-leaved plants that are
11 south of that immediately against the eastern garage wall
12 is bamboo. There's a very heavy bamboo thicket there.

13 Q. And no issues in July with the foliage? It
14 doesn't wither or dry, either of those plants?

15 A. They are extremely hardy year round plants.
16 Only in the winter does the bamboo turn a little bit
17 brownish color.

18 Q. This photograph was taken by your attorney,
19 Jesse Steffan, correct?

20 A. I believe it was.

21 Q. It was taken in November 2017, correct?

22 A. I could not say to the date it was taken.

23 Q. But you believe it was November of 2017?

24 A. She came to the house, I'm sorry I don't
25 remember when.

Jon Luer
4/26/2018

Page 59

1 (Exhibit 13 was previously marked for
2 identification.)

3 Q. (By Mr. Becker) Previously marked Exhibit 13,
4 and can you identify that photograph?

5 A. This is an up-close view of the portal or the
6 entryway into the heavily wooded bamboo thicket that is
7 between our house and the house immediately to the east.

8 Q. And is your garage to the west of this
9 photograph?

10 A. It's to the right side of the photograph, and
11 the bamboo is also the plant you see to the right side.
12 To the left, the larger leaf, is the magnolia tree that
13 sits in front of the forward or leading edge of the
14 house.

15 Q. As far as you know, is your neighbor's property
16 line depicted in this photograph?

17 A. It is not.

18 (Exhibit 14 was previously marked for
19 identification.)

20 Q. (By Mr. Becker) Previously marked Plaintiff's
21 Exhibit 14, and can you identify that photograph please?

22 A. If you were to proceed down the walkway in the
23 Exhibit No. 13 and the walkway turns to the right and
24 faces southerly, then you would see this exposure. This
25 would be the view, southern-looking view. You see the

Jon Luer
4/26/2018

Page 60

1 neighbor's house on the left. Behind the bamboo on the
2 right would be the garage, but it is out of view. And
3 then in the center there's a close line by wife uses to
4 hang her laundry up on.

5 Q. And it looks like an air conditioner on the
6 left side of the photograph?

7 A. Correct. The conditioning compressing unit
8 belongs to our neighbor.

9 Q. Where is the property line between your
10 neighbor and your home?

11 A. What you're saying is mostly our property.
12 There is a row of stones in front of the air conditioning
13 compressor unit and almost aligned with the center, our
14 side of the stones is where the property line runs.

15 Q. And then in the background of this photograph
16 is Parkway South Middle School, correct?

17 A. That is correct.

18 (Exhibit 15 was previously marked for
19 identification.)

20 Q. (By Mr. Becker) Previously marked Plaintiff's
21 Exhibit 15, and would you please identify that
22 photograph?

23 A. Yes. If you were to walk further down the
24 stone path, which is entirely on our property, in the
25 previous exhibit there is some large grasses there and

Jon Luer
4/26/2018

Page 61

1 there's a small frog pond there. The path loops a little
2 bit around that and continues heading south towards the
3 school. This is the view from the immediate other side
4 of that frog pond where the tall grasses are growing. So
5 still facing south and you see the school athletic fields
6 in the background. This is all our property.

7 Q. And there is no fence for your backyard,
8 correct?

9 A. That is correct.

10 Q. And in roughly the center of the photograph,
11 Exhibit 15, a small wooden structure, is that a compost
12 pile?

13 A. That's exactly what it is.

14 Q. And then immediately to the right of that is
15 firewood, correct?

16 A. There is some firewood, yes.

17 Q. And the item to the right of that, is that a
18 chair?

19 A. It's a folding chair leaned against a square
20 table.

21 Q. And then all the way over to the right in front
22 of the fire pit, what is that item?

23 A. That's just a piece of wood, a tree trunk about
24 2-foot tall, yet to be burned.

25 Q. Was this photograph taken around the same time

Jon Luer
4/26/2018

Page 62

1 by your attorney?

2 A. All the photographs I've seen I believe were
3 taken on the same day.

4 (Exhibit 16 was previously marked for
5 identification.)

6 Q. (By Mr. Becker) And previously marked
7 Plaintiff's Exhibit 16, would you identify that
8 photograph, please?

9 A. This is the man door entrance to the garage
10 from the outside. This is immediately to the right of
11 where the folded clothes line, perhaps looks like an
12 upside down umbrella that was visible in one of the
13 previous exhibits, immediately to the right or the west
14 of that is where this door is located.

15 Q. And the photograph depicts an exterior storm
16 door, correct?

17 A. That's correct.

18 Q. And then an interior solid door, but it appears
19 to have a window in it, correct?

20 A. That's correct.

21 Q. And that interior door swings into the garage,
22 correct?

23 A. That's correct.

24 Q. And it is standing open at roughly a 90-degree
25 angle in this photograph, correct?

Jon Luer
4/26/2018

Page 63

1 A. That's correct.

2 Q. Prior to going to sleep at night do you have a
3 particular routine in regard to securing the house?

4 A. I do.

5 Q. And what is that?

6 A. There are three, at this time, three main doors
7 to the outside, and we would go around and check and make
8 sure they're all locked. It's the front door. It's the
9 open door that you see here. The outside door we don't
10 lock. Then it's the sliding glass door that comes from
11 the back yard into the family room. So we lock those and
12 then we go to bed.

13 Q. When you say we check them, who do you mean?

14 A. It depends who is the later one to go to bed.
15 This night I know I had gone around and I had secured --
16 about the time we sat down to watch a film, I had gone
17 and secured all three doors. But it could be my wife if
18 she was after me.

19 Q. I believe you testified at this time, I assume
20 referring to July 10, 2016, that there were three
21 separate entrances to the home that you would secure; is
22 that correct?

23 A. That's correct.

24 Q. Are there fewer now or more now?

25 A. There's double layers of security now. We now

1 secure every night before we go to bed the door from the
2 garage to the kitchen. That one used to always remain
3 open, and when my son would come home he could open the
4 garage door and come in that way. He's not living at
5 home anymore. He's away at school. Seems like it's just
6 a best practice for security to go ahead and secure that
7 one now before we retire for the evening.

8 Q. So at the time, July 10, 2016, you kept the
9 interior garage door unlocked, correct?

10 A. That's correct.

11 Q. And the sliding glass door, does it have a bar
12 that would prevent someone from sliding the door open?

13 A. It does not. That sliding door had recently
14 been replaced and upgraded, and we were told by the sales
15 person who sold us the door that we no longer needed to
16 use that extra line of security, that the more modern
17 doors have a much more rigid restraint system built into
18 them, so we retired that system.

19 Q. So July 10, 2016, you did not have that bar; is
20 that correct?

21 A. That's correct.

22 Q. Looking back at Exhibit 16, the storm door,
23 does that door lock?

24 A. It does.

25 Q. And is there a keyhole depicted in the

Jon Luer
4/26/2018

Page 65

1 photograph?

2 A. I'm not sure. I don't see a keyhole depicted
3 there. The lock is a -- there's a bar that slides up and
4 down. The bar is sort of parallel with the door panel
5 itself on the inside. We rarely keep that door locked.
6 We normally rely on the second door to provide the level
7 of security. This is more for animals. We have pets in
8 the house and we want to make sure that they stay inside.
9 And it's also to keep flies and mosquitos from entering
10 too.

11 Q. Then the night of the incident, do you
12 specifically recall securing the house?

13 A. I do.

14 Q. What time was that at?

15 A. It would have been about 9:00. My wife had
16 already gone in for the evening and I made the rounds and
17 secured the three doors in question.

18 Q. Would you specifically describe those three
19 doors?

20 A. The front door which has two locks to it, it
21 has a lock in the handle itself as well as a dead bolt.
22 Then I went to this door. I only secured the lock in the
23 handle. It does have a dead bolt. I did not secure that
24 one. The sliding door just has a single lock built into
25 it. It's a lever that goes up. It's either in the

Jon Luer
4/26/2018

Page 66

1 upward or downward position. It was in the downward
2 position which is the locked position.

3 (Exhibit 17 was previously marked for
4 identification.)

5 Q. (By Mr. Becker) Handing you what's been
6 previously marked as Exhibit 17. Can you identify that
7 photograph?

8 A. This is the doorway from the garage into the
9 kitchen and the view is from the garage side. So you're
10 looking at the exterior side of that door.

11 Q. And the door in the photograph is completely
12 closed, correct?

13 A. It is and this is the same door. We haven't
14 changed it, that or the locks, exactly how it was that
15 night.

16 Q. Is there an interior light switch -- strike
17 that. Is there a light switch in the garage area to turn
18 the light on and off in the garage?

19 A. There is. It's obscured by this picture, but
20 if you could look at where the handle of the door is,
21 it's probably located about nine inches to the left of
22 that.

23 Q. Thank you.

24 (Exhibit 7 was previously marked for
25 identification.)

1 Q. (By Mr. Becker) Previously marked Exhibit 7 I'm
2 handing you. Have you seen that document before?

3 A. I have not.

4 Q. After you made the complaint via the e-mail on
5 July 25, 2016, did someone from the county police contact
6 you?

7 A. Sergeant Vaughn contacted me and we had a phone
8 conversation. It was no written correspondence or
9 face-to-face correspondence.

10 Q. So you spoke to Sergeant Vaughn on the phone?

11 A. I did.

12 Q. How long did that conversation last?

13 A. I know it was late of the day. I believe I was
14 still in the office, so maybe 6:00 at night and maybe ten
15 minutes. I did not record the start or stop time or the
16 exact details of the conversation.

17 Q. You're not recording this now; are you?

18 A. No. It's turned off actually so it doesn't
19 ring.

20 Q. Just wondering. Sergeant Vaughn was polite,
21 correct?

22 A. He was.

23 Q. Officer Clinton and Officer Selz, they were
24 polite also?

25 A. Yes. I only dealt with them that evening, but

Jon Luer
4/26/2018

Page 68

1 yes, they were both very polite.

2 Q. So back to the telephone conversation with
3 Sergeant Vaughn, tell me what was said.

4 A. I expressed my concern that there were people
5 in my house uninvited. It's always a very scareful [sic]
6 position to get out of bed and find strangers in your
7 house. I do recall him sort of saying that it's the
8 county's -- it's their duty to protect us from bad guys.
9 And I expressed that a lot of things just don't make
10 sense. Why would a burglar take a taxi to my house. He
11 responded we deal with people that are high on drugs or
12 drunk or mentally disabled and they see all kinds of
13 things that don't make sense. That I found disturbing,
14 that he was justifying that away.

15 Q. What was he justifying?

16 A. The fact that the police officers had the right
17 to be in my house and it was for my own good that they
18 did this. The most disturbing part of it was he made
19 light of the situation at the very end of our
20 conversation when I told him about my fear that had I
21 been armed, had I known intruders were in my house, I may
22 have come out armed not knowing who they were. I'm
23 afraid if that would have happened the confrontation
24 would have ended badly. And I think the badly would be,
25 you know, my son or myself, one or both of us ending up

Jon Luer
4/26/2018

Page 69

1 dead. I said what would have happened if I would have
2 been killed, and he answered, well, then we would have
3 some explaining to do. That really discouraged me. He
4 was either making light of the situation or saying only
5 when I was dead would they have to answer for their
6 actions.

7 Q. Why didn't you grab your handgun?

8 A. I didn't realize the noises were emanating from
9 within the house, otherwise I would have put clothes on
10 and armed myself.

11 Q. Were you thinking at the time when you first
12 heard the noises that it could be an intruder trying to
13 get in from the outside?

14 A. No. We were sleeping with open windows and we
15 thought it was maybe something with one of the neighbors
16 going on.

17 Q. I think you testified that Luca went to sleep
18 at about 10:00; is that correct?

19 A. He arrived home at 10:00. We remained in front
20 of the television. I assume he probably just made
21 himself ready for bed and went straight to bed. Exact
22 order what he did after he went down the hall I can't
23 say.

24 Q. From 10:00 to the time you fell sleep you do
25 not believe he left the home, correct?

Jon Luer
4/26/2018

Page 70

1 A. That's correct.

2 Q. You do not recall specifically what the
3 officers said in regard to waking up Luca, correct?

4 A. They asked me where my son was. I told them
5 he's in his room. They asked me to retrieve him, which I
6 did. When they saw he wasn't dressed, they ordered him
7 to put clothes on and accompany them outside.

8 Q. When you found out that no report was filed
9 what did you think?

10 A. There was a couple things that went through my
11 head. I actually called twice thinking the first time
12 they just haven't gotten around to it yet. I was
13 wondering at one time were they even real police
14 officers, but the one lady said yeah, somebody was
15 dispatched and they found nothing. So then I knew at
16 least they were genuine police officers versus somebody
17 just coming in to scope out the house. But then I
18 wondered why nothing was being filed, to have something
19 severe enough to justify coming into a person's house and
20 then also to have drawn weapons and hold somebody at gun
21 point, something just wasn't adding up over a \$55 cab
22 fare.

23 I was really getting discouraged wondering is
24 something trying to hide this, somebody embarrassed by
25 activities. I didn't know what was going on, but this

Jon Luer
4/26/2018

Page 71

1 had to be elevated, and that's why I went through the
2 county process of filing the complaint.

3 Q. What dollar amount of damages are you seeking?

4 A. I don't know that I can specify what a dollar
5 amount is. I know the troubles that we had sleeping,
6 especially the first couple nights afterwards. I know my
7 wife, she doesn't act like she did before. She's still
8 very jittery and skittish. She now when I'm gone for
9 business is pushing furniture in front of the doors. We
10 put an alarm system in the house because of this. So we
11 don't feel that level of confidence in the police that
12 you always grow up having respect for, they're there for
13 you, and now we feel like there's a fear factor that
14 comes from within. I think that I'm not one to try and
15 figure out what's a dollar amount to that.

16 Q. And what is your fear of the police
17 specifically?

18 A. I was brought up a very law and order type
19 individual having a lot of respect for first responders
20 of all kinds, even to the point that I wanted to go into
21 the military myself and join those ranks, always holding
22 them to the highest standards, somebody that the public
23 would be very proud of. And now I don't know that I have
24 that. Now when a police officer confronts me, I realize
25 that they're people too, that they make mistakes too, and

Jon Luer
4/26/2018

Page 72

1 you just got to hope that you're not a victim of one of
2 those mistakes.

3 Q. I know you testified about your ROTC time. Any
4 other military service?

5 A. No, just those three years.

6 Q. And once Officer Clinton and Officer Selz left
7 your home you and Officer Clinton shook hands, correct?

8 A. Possibly. I don't remember. It was very
9 cordial interaction with one another. I was not
10 belligerent or confrontational, and it seemed like they
11 were just interested in moving on and keeping as low key
12 as possible, would be my take on it.

13 Q. And when you say cordial, the officers were
14 cordial too, correct?

15 A. They were.

16 Q. When they left you thanked them, correct?

17 A. I don't remember thanking them. I remember a
18 relief, after we looked through the house, that there was
19 no bad person in there.

20 Q. And Luca is in college in Passau, Germany,
21 right?

22 A. Yes.

23 Q. Is that near Munich?

24 A. About an hour east of Munich. It's right on
25 the Austrian border.

Jon Luer
4/26/2018

Page 73

1 Q. Small town?

2 A. Yes.

3 Q. Do you expect him to come to the trial to
4 testify?

5 MR. PRAISS: Object to the form of the
6 question.

7 A. If it would mean taking him away from his
8 studies, no. He is in the country twice a year. He's
9 not an American citizen. He's on a green card. He was
10 just here last month for three weeks. Six months he'll
11 be back again, and then I expect six-month cycles
12 thereafter.

13 Q. So do you believe -- as you sit here today you
14 don't believe he's going to attend the trial?

15 MR. PRAISS: Object to the form of the
16 question.

17 A. I don't believe he'll attend the trial because
18 I think it's scheduled to take place while classes are in
19 session.

20 Q. (By Mr. Becker) And what is his major at
21 Passau?

22 A. Media and communications.

23 Q. When Luca was selling Welk Luxury Resort
24 traveling packages during in the summer where was his
25 base of operations? Out of his house or where?

Jon Luer
4/26/2018

Page 74

1 A. No. I don't think he was doing it this summer.
2 I think that was last summer he was doing that. So that
3 was just a part-time job for him between his studies.
4 They had a headquarter office in the vicinity of Union
5 Station. I'm not sure which of the buildings associated
6 with Union Station or the suite. And then they would
7 have people go to the field to sell these, and that field
8 could be going to six flags, there or working out of
9 kiosks at a variety of the different shopping malls
10 around the area.

11 Q. You've indicated that you received a warning
12 for speeding on Big Bend in December of 2017, correct?

13 A. I did.

14 Q. And what police department was that from?

15 A. St. Louis county.

16 Q. Did you actually receive a written warning or
17 just a verbal warning?

18 A. It was a written warning.

19 Q. And how was that encounter?

20 A. It was very cordial.

21 Q. Did you bring it with you? May I?

22 A. I've never had one before. I found it
23 interesting.

24 Q. Would you mind if I had a copy of that today?
25 Is that okay?

Jon Luer
4/26/2018

Page 75

1 A. Sure.

2 Q. Thank you.

3 MR. PRAISS: You want us to make a copy of
4 this for you?

5 MR. BECKER: Please.

6 Q. (By Mr. Becker) Getting close to the end here.
7 Why don't we take another short break and then I think
8 I'll wrap up. Off the record.

9 (A short break was taken.)

10 Q. (By Mr. Becker) Back on the record. We took a
11 short break and we're back on the record. Mr. Luer,
12 prior to July 10, 2016, did you have any contact with a
13 police officer?

14 A. These two in specific?

15 Q. No, any police officer.

16 A. I've had several contacts through my life with
17 police officers, being pulled over for minor traffic
18 violations. When I worked for the highway department
19 they had a lot of shared resources with the state highway
20 patrol, so I had very close relations with some of them
21 that would attend various credit union meetings and other
22 things.

23 Q. Prior to July 10, 2016, any negative contact
24 with the police department?

25 A. I go back to my teenage years, yes.

Jon Luer
4/26/2018

Page 76

1 Q. Just briefly describe that.

2 A. I would say there were two instances. One of
3 them -- high school both times. The jurisdiction was
4 city of Crestwood, and they had pulled myself over. I
5 was with another friend of mine in high school, was
6 cruising around, must have thought we were up to no good,
7 and they stopped us, searched the car, found nothing and
8 ending up letting us go. In the meantime they excused us
9 of trying to run them over and other kinds of things.
10 That was very distressing.

11 Q. Any other negative contact?

12 A. Yes, also high school years, Jack In The Box
13 restaurant, St. Louis county police officer down 55 and
14 Telegraph Road, I believe there were St. Louis county
15 police officers working there probably maybe in security.
16 I'm not sure why they were there. There was a
17 confrontation with a patron who was maybe just getting
18 disgruntled. And the police showed up, lights and
19 sirens. They ended up taking the person away.

20 I, sitting in a corner with some of my friends,
21 walked over to one of the uniformed officers to volunteer
22 my name as a witness to what happened because I didn't
23 know being plain clothed exactly who was a police officer
24 or not at that point. But from what we saw we wanted to
25 give our names, and we were threatened with arrest if we

1 didn't immediately leave the premises.

2 Q. Anything else?

3 A. Those would be the two what I would call
4 negative instances.

5 Q. And when you left ROTC you didn't receive a DD
6 214; did you?

7 A. No, those are only for people that receive
8 commissions or active. I was never on the payroll,
9 otherwise I probably would have.

10 Q. Since July 10, 2016, other than the contact
11 with Sergeant Vaughn and Officer Ming with the warning,
12 have you had any contact with the police after that?

13 A. I don't believe I have.

14 Q. And why did you give permission for the officer
15 to look in Luca's room?

16 A. They were looking for a white hat that was
17 reportedly being worn by the person of interest. This is
18 where he was. He came in, as you can see here, he just
19 opened up his suitcase and scattered everything around.
20 If he had been wearing a white hat I'm sure it would have
21 been laying on the mounds of other clothes he had around.
22 It was a good opportunity to find out if indeed this was
23 the person they were looking for.

24 Q. They did not find a white hat; did they?

25 A. They did not.

Jon Luer
4/26/2018

Page 78

1 Q. As far as you know Luca was not intoxicated,
2 correct?

3 A. As far as I know he was not.

4 (Exhibit 24 was marked for identification.)

5 Q. (By Mr. Becker) So I'm handing you Exhibit 24.
6 It's a photograph produced by you through discovery. Can
7 you describe that photograph?

8 A. This is standing at the entryway to the
9 basement. The door that's barely visible on the right
10 side, you can see the doorjamb around there, this is the
11 kitchen and looking down the stairs into the unlit
12 basement. If you were to enter through the garage door
13 that we talked about earlier, you would take two steps
14 and you would be standing right at this very point.

15 Q. Is the basement finished?

16 A. It has a finished room and that's it, just a
17 single room that's fully finished. There's a storage
18 room that's unfinished.

19 Q. Is there a light switch anywhere at the top of
20 the stairs here?

21 A. Yes, it looks like there's a rag or something
22 wedged in the left bannister and immediately above that
23 rag on that left bannister is the light switch.

24 (Exhibit 25 was marked for identification.)

25 Q. (By Mr. Becker) And then this is Exhibit 25,

Jon Luer
4/26/2018

Page 79

1 also a photograph produced by you through discovery.

2 Would you identify what's depicted in the photograph?

3 A. This is the hallway where the confrontation
4 took place. The viewpoint of the person taking the
5 photograph is roughly the same position where the two
6 officers were standing looking in the same direction the
7 two officers were standing. At the end of that T hallway
8 there's that round mirror with some decorative on it, and
9 I was standing down there facing back in the direction of
10 the person taking the photograph.

11 Q. How far from the mirror were you standing?

12 A. I was in the middle hallway. It's just about a
13 3 foot wide hallway, so I'm going to say a foot, foot and
14 a half in front of the mirror towards the person taking
15 the picture.

16 Q. When you first saw the officers you were
17 standing about a foot and a half from that mirror?

18 A. From that, yes, right in the center of that T
19 that you see in the photograph.

20 Q. Would the location of the officers be depicted
21 in this photograph, Exhibit 25?

22 A. They would -- from this photograph I would say
23 they could be the one taking the picture. It's that
24 precise to where they were standing. That's about an
25 8-foot long hallway, by the way.

Jon Luer
4/26/2018

Page 80

1 Q. Thank you.

2 (Exhibit 26 was marked for identification.)

3 Q. (By Mr. Becker) Exhibit 26, also a photograph
4 produced by you, would you describe what's depicted in
5 that photograph?

6 A. Going backwards from where the point of view of
7 Exhibit 25, you would be entering into our family room.
8 This picture is pretty much not exactly but very close to
9 the center of that family room. So looking forward you
10 see the hallway, but to the rear of the observer would be
11 another doorway into the kitchen.

12 Q. And if you were standing in the location where
13 you first saw the officers that night would you be
14 depicted in this photograph?

15 A. I would. Not completely, but at least my left
16 side would be.

17 Q. Would the location of the officers be depicted
18 in this photograph when you first saw them?

19 A. Yes, it would.

20 Q. Where would they have been standing when you
21 first saw them?

22 A. They were standing about in the -- the center
23 of this picture is where the hallway begins, and they're
24 standing right at the beginning of the hallway facing to
25 the west down towards that mirror you saw before, and I

Jon Luer
4/26/2018

Page 81

1 would have been standing the opposite side in that
2 hallway.

3 Q. Would they have been east of the lamp depicted
4 in the picture?

5 A. That's correct. They would -- west, they would
6 be west of the lamp depicted in the picture. The lamp
7 would be behind them. The kitchen light would be behind
8 them.

9 Q. Thank you.

10 (Exhibit 27 was marked for identification.)

11 Q. (By Mr. Becker) And then Exhibit 27, another
12 photograph, what does that depict?

13 A. That's almost an identical picture of Exhibit
14 No. 25, maybe a little bit more advanced as you begin
15 down the hallway. It's a little more tighter view, but
16 you do see the intersection T of the hallway. The center
17 bedroom would be straight ahead if you could go straight
18 through that wall. The master bedroom would be down the
19 hall to the left, the two bathrooms down the hall to the
20 left, and then the third empty bedroom down the hall to
21 the right.

22 Q. Is this the doorway to Luca's bedroom?

23 A. No, that's sliding doors to a closet where
24 linens are stored.

25 Q. Is the door to Luca's bedroom depicted in this

Jon Luer
4/26/2018

Page 82

1 photograph?

2 A. It is not.

3 Q. And the wall to the right on the photograph,
4 what is that the wall of?

5 A. That is a common wall, the other side of that
6 being the living room.

7 Q. How about this wall to the left?

8 A. The wall to the left, that's closet area and on
9 the other side of the closet is the first bathroom. It's
10 the common bathroom.

11 (Exhibit 28 was marked for identification.)

12 Q. (By Mr. Becker) And then Exhibit 28, identify
13 what's depicted in that photo, please.

14 A. This is again behind our house standing in our
15 yard but not too far from the property line facing south
16 with the Parkway South Junior High School parking lot in
17 the background. We previously looked at a compost pile,
18 a square wooden structure. This picture, my estimation
19 is the person taking this picture is probably standing
20 immediately adjacent to that square wooden frame compost
21 pile.

22 Q. In the photograph by my thumb there's a very
23 faint thin green line going across. Do you see that?

24 A. I do.

25 Q. Is that something just in the photo reprint or

Jon Luer
4/26/2018

Page 83

1 is that some type of wire going across your backyard?

2 A. There is no wire going across the backyard. I
3 think it's just in the quality of the printer itself.

4 MR. BECKER: No further questions.

5 MR. PRAISS: I do have a few follow-up
6 questions.

7 CROSS-EXAMINATION

8 BY MR. PRAISS:

9 Q. First, Mr. Luer, I'm going to show you what I
10 believe is a compilation of all the photographs that have
11 been marked as exhibits so far. For the record that's
12 Plaintiff's Exhibit 12, 13, 14, 15, 16, 17, and today we
13 have 24, 25, 26, and 27. Am I correct the attorney from
14 the ACLU came to your house to take these pictures?

15 A. Ms. Steffan, yes.

16 Q. Do you believe that all these pictures
17 accurately represent the condition of both the outside of
18 your house and the inside of your house as of July 2016
19 when the incident took place?

20 A. They very closely represent -- we've had a
21 change of flooring in the kitchen and family room. Other
22 than that you would find the furniture, shrubbery,
23 everything else to be very similar.

24 Q. Obviously the only difference being that events
25 took place around 3:00 in the morning and it would have

Jon Luer
4/26/2018

Page 84

1 been dark outside, correct?

2 A. That's correct.

3 Q. Now if I can go through a few of the pictures
4 and I have some more specific questions. On Exhibit 13,
5 again can you just for the record describe exactly where
6 that is with respect to the front of your house,
7 Plaintiff's Exhibit 12?

8 A. If you were to walk behind the vehicle parked
9 in the driveway, that is an entryway. It's a walkway.
10 It makes a 90-degree turn. It's a very heavily vegetated
11 area with a defined pathway through it, and that
12 vegetation is something that we use as part of our
13 privacy.

14 Q. Let me, first of all, ask you a question. The
15 walkway, is that something that you yourself put during
16 the time you've lived in the house?

17 A. Yes, my wife and I built that ourselves.

18 Q. Approximately when do you think you did that?

19 A. 2013 or '14.

20 Q. Okay. Is the entire pathway shown on
21 Plaintiff's Exhibits 13, 14, and continuing on 15? That
22 pathway, is that the same pathway that you put in?

23 A. It is a pathway. There's a little serpentine
24 path which it takes. It doesn't have a whole lot going
25 around the frog pond that's out there. Has a little bit

Jon Luer
4/26/2018

Page 85

1 of a deviation in it. That's completely on our property.
2 As a matter of fact our property line extends actually
3 slightly to the east of that.

4 Q. Let me go back to testimony you just gave with
5 respect to Exhibit 13. There is a lot of vegetation, but
6 there appears to be like the pathway goes through a
7 covered archway. Is that a fair description?

8 A. Yes.

9 Q. Was there intent by you and your wife when you
10 designed the pathway -- what was your intent?

11 A. At the other end of the pathway we put a
12 clothes line specifically where it wouldn't be obnoxious
13 view to anybody. We didn't want it way out back where
14 people would see it. We sort of tucked it between the
15 houses and then also having an obscured view from the
16 street with the magnolia tree and the bamboo, providing
17 the ability to hang our laundry out without people seeing
18 our dirty laundry.

19 Q. Plaintiff's Exhibit 16 is the storm door, the
20 entrance to the garage, correct?

21 A. Yes.

22 Q. Can you see the storm door from Plaintiff's
23 Exhibit 13?

24 A. No, you cannot.

25 Q. Can you see it from Plaintiff's Exhibit 14?

Jon Luer
4/26/2018

Page 86

1 A. No, you cannot.

2 Q. Okay. When you're standing -- if someone is
3 standing on the pathway -- strike that. If you walk down
4 the pathway shown in Plaintiff's Exhibit 14, at what
5 point would you be able to see Plaintiff's Exhibit 16?

6 A. You would have to be where that folded clothes
7 line is before you would see it.

8 Q. If somebody was standing on the pathway and
9 maybe a foot on the grassy area, would that be -- would
10 the person be standing on your property line?

11 A. Yes, they would.

12 Q. How far does your property line go?

13 A. At the end of the photograph there is some
14 vegetation that's shown, a little bit taller vegetation.
15 That's actually an end view of a line of shrubbery. That
16 entire hedge is on our property.

17 Q. How far is the pathway from the garage in your
18 house?

19 A. There's about a 5-foot width of bamboo, the
20 pathway is about another 3-foot in width, and our
21 property line is another foot or two off of that.

22 Q. So how many feet was the bamboo you said?

23 A. Five.

24 Q. So about 6 feet or 8 feet you would be at the
25 pathway away from the house; is that fair?

1 A. So 8-foot would put you to the other edge of
2 the pathway, the eastern edge, and then the property line
3 is another couple foot down.

4 Q. Perfect. Is everything shown on Plaintiff's
5 Exhibit 16 on your property?

6 A. Exhibit 15?

7 Q. 15.

8 A. That is, and here you can see a little bit of
9 that hedge row, privacy hedge row on the left side of the
10 pathway.

11 Q. You don't have a fence?

12 A. Do not.

13 Q. Does the vegetation serve almost as a purpose
14 of the fence?

15 A. It's a privacy fence. We don't use chain link
16 fence because it doesn't provide privacy. We want to
17 allow openness for animals to go through. We like to
18 have a very nature friendly yard, so we want to have all
19 the greenery but at the same time having privacy without
20 inhibiting movement of deer and other animals.

21 Q. There was some testimony about I believe kind
22 of what you described as your routine in terms of
23 securing doors to the house. Do you recall that?

24 A. Yes.

25 Q. I want to make sure that that testimony is very

Jon Luer
4/26/2018

Page 88

1 clear in terms of that, what exactly transpired on the
2 night in question. With respect to -- I don't want to
3 focus specifically on the doors at issue, so I'm not
4 looking at the front door to the house or the back
5 sliding door. I'm only interested in the entranceway to
6 the garage and from the garage to the house. What do you
7 recall was your -- what steps you took to secure the
8 doors that night, or your wife?

9 A. We had been -- earlier in the evening we had a
10 fire in the fire pit. My wife had gone inside. I had
11 smoked a cigar. It had gone out. I thought we were done
12 for the evening. So I had entered the house and secured
13 the doors. She had gone back outside. She wanted to sit
14 outside for a little bit more. She had gone back out
15 through this door and unlocked a previously secured door.

16 Q. Let me stop you. When you say this door, which
17 door are you referring to?

18 A. This is the garage door.

19 Q. Shown on Plaintiff's Exhibit 16?

20 A. Correct. There's two doors there. The one
21 that is opened, it's my belief that my wife not only went
22 out through this door and unlocked it, that she opened it
23 and left it in the same position as it is shown in that
24 exhibit where it's opened in a 90-degree open angle.
25 Then she went out the door -- the other door closes, it's

Jon Luer
4/26/2018

Page 89

1 on a hydraulic closer. It closed. And then we went back
2 in for the night, and I didn't think to go back through
3 this door and secure it a second time knowing I had
4 already secured the premises once.

5 Q. Is that when after you had the fire pit and you
6 were inside the house, you watched a movie you mentioned
7 earlier?

8 A. Correct.

9 Q. Let me go back to a couple details. It's your
10 understanding that after your wife came back in she
11 entered through the door shown on Plaintiff's Exhibit 16?

12 A. Uh-huh.

13 Q. The outside door, we'll call that the storm
14 door, you mentioned it has a hydraulic unit to it?

15 A. It has a hydraulic closer.

16 Q. In your experience has that door ever remained
17 ajar for any reason?

18 A. Not on its own. It's actually fairly new and
19 all the equipment and hardware is fairly new and it was
20 functional then and is very functional still to this day.

21 Q. Do you have any reason to believe it would have
22 been ajar on the night in question?

23 A. That's not logical. It would have to be
24 manually propped ajar because everything is functional.

25 Q. Do you have any reason to believe that you or

Jon Luer
4/26/2018

Page 90

1 your wife manually propped the storm door open that
2 night?

3 A. There would be no reason for us to prop any of
4 the doors open because we would be concerned about
5 animals exiting the house. We have cats.

6 Q. On the night in question your understanding is
7 that the external storm door would have been completely
8 shut?

9 A. Yes.

10 Q. But the interior door to the garage your wife
11 could have left open?

12 A. Not only unlocked but completely opened in the
13 same position the picture depicts.

14 Q. I now want to focus on what's shown in
15 Plaintiff's Exhibit 17. Am I correct that's the view
16 from the garage looking into the house?

17 A. Correct.

18 Q. What steps do you normally take -- strike that.
19 The night in question what steps did you take, if any, to
20 secure that door?

21 A. This door at this time was not part of our
22 normal lock door procedure, but we do check to make sure
23 doors are closed. And before we went to bed -- before I
24 went to bed I know I went around turning off lights in
25 the house and making sure the doors were closed, front

Jon Luer
4/26/2018

Page 91

1 and back locked. But this one when I'm standing at the
2 range in the kitchen, there's a range hood with a light
3 on it and I'm turning that off. Just glancing to the
4 left I see this door from the other side, and I could see
5 that it was closed. And that's all I did. I didn't
6 check it for locking.

7 Q. When did you -- the steps you just described in
8 terms of checking the kitchen area, turning off the light
9 on the range, and looking at the door shown on
10 Plaintiff's Exhibit 17, when did that take place?

11 A. I don't remember when we went to bed. The
12 movie was over I'm guessing 11:00 or 12:00.

13 Q. Before going to bed that's the last steps you
14 took?

15 A. (The witness nodded.)

16 Q. Do you have any reason to believe that when you
17 went to bed on the night in question that the door from
18 the garage to the kitchen shown on Plaintiff's Exhibit 17
19 was completely closed?

20 A. That is my understanding, and since I was the
21 last one going to bed there shouldn't be anybody behind
22 me.

23 Q. Okay. I'll show you Plaintiff's Exhibit 27.
24 Am I correct this is the hallway from your kitchen living
25 room area to the bedrooms? Is that a fair description?

1 A. That's correct.

2 Q. Your bedroom is to the right side?

3 A. To the left.

4 Q. To the left?

5 A. Yes.

6 Q. Your son's bedroom?

7 A. It's directly ahead, but the door to enter it
8 you have to turn right into the hallway on that cross of
9 the T and then immediately to the left you go into the
10 door.

11 Q. You mentioned a few times where your son's bed
12 is. Would it be literally in the center of the picture?

13 A. That's correct. His bed was, at that time,
14 oriented to where the headboard -- he didn't have a
15 headboard, but if he had one it would be solid against
16 that wall immediately on the other side.

17 Q. Where is the doorbell, the actual ringer
18 mechanism in the house?

19 A. It's actually shown in the photograph, upper
20 center. There's a air return vent, part of the air
21 conditioning system. Immediately behind that is the
22 bell.

23 Q. Top right corner next to the air vent?

24 A. That's it.

25 Q. How many feet would you say it is distance from

Jon Luer
4/26/2018

Page 93

1 that doorbell ringer mechanism to where your son sleeps?

2 A. Four and a half feet.

3 Q. How far is it to where you and your wife sleep?

4 A. Our headboard is on the exterior wall. I'm
5 going to guess 18 feet.

6 Q. Do you have any reason to believe that that
7 doorbell mechanism ringer unit was not operating and
8 functioning correctly on the date of the incident?

9 A. We know it was functioning because we tested it
10 that night and since.

11 Q. Now, there was some testimony by you about the
12 fact that you have some hearing loss with respect to, if
13 I took notes correct, when it's over 3,000 hertz,
14 correct?

15 A. Yeah, frequency.

16 Q. Do you have an understanding what wave length
17 in hertz magnitude the doorbell ringer mechanism is?

18 A. That's actually a multi-chime mechanism, so
19 you're going to find it doesn't operate just at a single
20 one but between 800 and 1400 hertz.

21 Q. Do you have any problem hearing the doorbell
22 normally?

23 A. None at all.

24 Q. From your experience do you think it's likely
25 -- strike that. From your experience do you think it's

Jon Luer
4/26/2018

Page 94

1 plausile that the officer rang the doorbell on one or
2 two occasions that evening and that neither you, your
3 wife, or your son Luca heard it and were awoken by it?

4 MR. BECKER: Objection, calls for
5 speculation on the part of the two other witnesses, and
6 asked and answered that the witness already testified he
7 didn't hear a doorbell ring.

8 Q. (By Mr. Praiss) My question is asking whether
9 they actually rang a doorbell. Do you think it's
10 possible that the officers, as they claim, rang a
11 doorbell and that you did not hear it that night?

12 MR. BECKER: Same objection, and also calls
13 for speculation.

14 A. I can't answer for other people. I'll just
15 answer for myself. I have no problem hearing that
16 doorbell anywhere in the house, but it's possible I slept
17 through it.

18 Q. (By Mr. Praiss) I want to direct your
19 attention to what was previously marked Plaintiff's
20 Exhibit 9, and if you don't mind let me find my copy in
21 my pile here a second. You prepared this approximately
22 how many days after the incident in question?

23 A. Two.

24 Q. Okay. So the events were very recent and fresh
25 in your mind?

Jon Luer
4/26/2018

Page 95

1 A. They were. I began by just jotting down some
2 notes, and then by the time I sat down on a computer with
3 the word processor it was now up to two days.

4 Q. If you want, if you take the time to read it if
5 necessary, but my question is do you believe sitting here
6 today that all the information contained in Plaintiff's
7 Exhibit 9 under the comments submitted are truthful and
8 accurate?

9 A. I was very careful to make sure that I believed
10 100 percent of what I was writing. If I was speculating
11 or wasn't sure, that I would also make that clear at the
12 same time. So there's no exaggeration at all on my part.

13 Q. On the second page of this document there is
14 about five lines down some sentences that I'm going to
15 read into the record. "The police told me that someone
16 who identified our house as his father's home took a cab
17 ride from downtown St. Louis to our house."

18 A. Uh-huh.

19 Q. Do you recall when that statement was made to
20 you?

21 A. Out on the driveway.

22 Q. Do you recall at that time, were you out there
23 with your wife and your son?

24 A. We were all outside at that time.

25 Q. Were you with one or both police officers at

Jon Luer
4/26/2018

Page 96

1 the time?

2 A. Both.

3 Q. How far away was the taxicab driver at that
4 time from you?

5 A. He was not in our immediate proximity. I'm not
6 sure if he returned back to the end of the driveway or
7 had gone back to sit in his car.

8 Q. It continues, "The police also stated that the
9 customer did not know the exact address of our house
10 since he misidentified the street as Amsterdam, not Van
11 Loon."

12 A. That's correct.

13 Q. Is that statement accurate?

14 A. That is.

15 Q. The following -- the next two sentences there,
16 "When passing our house he pointed to it telling the
17 driver to stop saying that this is the house and that it
18 is his father's white truck parked in front of it." Did
19 you have a white truck parked in front of your house?

20 A. We did.

21 Q. Do you own that white truck?

22 A. We do.

23 Q. "The customer not having the \$55 fare said he
24 was going to get the money from his father." It
25 continues, "The taxi driver did not see this person enter

1 our house but instead saw him disappear around the house.
2 The frustrated cab driver called the police."

3 All that information I just read, was that all
4 communicated to you by either Officer Selz or Officer
5 Clinton?

6 A. Yes, it was.

7 Q. Do you recall which one of them, by any chance?

8 A. No, I don't.

9 Q. But you have no doubt that you learned that
10 information the police officers standing outside that
11 night?

12 A. Yes.

13 Q. Did you ever have any conversations with the
14 cab driver?

15 A. No.

16 Q. You're 100 percent sure the cab driver did not
17 provide you this information?

18 A. I'm sure.

19 Q. You did not know it on your own?

20 A. No, I don't. I recall that the cab driver made
21 a couple calls to the closest jurisdiction before he got
22 the right one. And that's also information I learned
23 from the police officers.

24 Q. A couple more questions. Back to I think let's
25 use Exhibit 25, I think. You described previously where

1 you were standing with respect to Exhibit 25 and where
2 the police officers were. At the time that you turned
3 the corner and you for the very first time saw the two
4 officers, I want to be very clear, how were their guns
5 pointed at that time?

6 A. They were in their right hand, I believe arm
7 extended, pointed directly at me.

8 Q. Did the officers at anytime -- strike that.
9 Did the officers take the time to check every room in
10 your house to secure that there wasn't a burglar there?

11 A. They did not.

12 Q. Which rooms did they not check to your
13 knowledge?

14 A. Very positively they checked neither of the
15 bathrooms. They did not check the master bedroom, and I
16 don't believe they even checked the spare bedroom which
17 is the northern most bedroom.

18 MR. PRAISS: No further questions. Thank
19 you.

20 MR. BECKER: No further questions.

21

22

23

24

25

Jon Luer
4/26/2018

Page 99

1 7th day of May, 2018.

2
3 ACLU of Missouri Foundation
4 Omri E. Praiss, Esq.
5 906 Olive Street
6 Suite 1130
7 St. Louis, MO 63101

8 Re: Jon Luer and Andrea Steinebach vs. St. Louis County,
9 Missouri, Michael Clinton, and Benjamin Selz

10 Dear Mr. Praiss:

11 Enclosed please find a copy of the transcript of Jon
12 Luer's deposition testimony given on April 26, 2018, in
13 the above-captioned matter. I understand you would like
14 him to read and sign the transcript.

15 After he has reviewed the transcript and made any
16 necessary corrections on the deposition correction sheet,
17 please have him sign the original signature page in the
18 presence of a notary public and forward it, along with
19 the correction sheet, to Carl Becker.

20 If you have any questions regarding this matter, please
21 do not hesitate to contact me at (314)346-0141.

22 Sincerely,

23
24 Karen M. Russo, CCR, RPR

25 Enclosures

Cc: All counsel present at deposition

1 JON LUER

2 DEPOSITION CORRECTION SHEET

3 IN RE: Jon Luer and Andrea Steinebach vs. St. Louis
4 County, Missouri, Michael Clinton, and Benjamin Selz

5 Upon reading the deposition and before subscribing
thereon, the deponent indicated the following changes
6 should be made:

7 Page Line Should read:
8 Reason assigned for change:

9 Page Line Should read:
10 Reason assigned for change:

11 Page Line Should read:
12 Reason assigned for change:

13 Page Line Should read:
14 Reason assigned for change:

15 Page Line Should read:
16 Reason assigned for change:

17 Page Line Should read:
18 Reason assigned for change:

19 Page Line Should read:
20 Reason assigned for change

21
22 _____
23 Signature of Deponent
24
25

1

2

STATE OF _____)

3

COUNTY OF _____)

4

5

6

I, Jon Luer, do hereby state that the foregoing
statements are true and correct, to the best of my
knowledge and belief.

7

8

9

10

11

_____ JON LUER

12

13

14

Subscribed and sworn to before me this _____ day of
_____, 2018.

15

16

17

_____ Notary Public

18

My commission expires:

19

20

21

22

23

24

25

Jon Luer
4/26/2018

Page 102

1 C E R T I F I C A T I O N

2 I, Karen M. Russo, Certified Shorthand Reporter,
3 within and for the State of Missouri, DO HEREBY CERTIFY
4 that pursuant to notice/agreement between the parties,
5 the aforementioned witness came before me at the time and
6 place hereinbefore mentioned, and having been duly sworn
7 to tell the whole truth of the witness's knowledge
8 touching upon the matter in controversy aforesaid; that
9 the witness was examined on the day, and said examination
10 was taken in shorthand and later reduced to printing;
11 that signature by the witness is not waived and said
12 deposition is herewith forwarded to the taking attorney
13 for filing with the Court.

14 IN WITNESS WHEREOF, I have hereunto subscribed my
15 name this 7th day of May, 2018.

16
17
18 Karen Russo
19

20 Karen M. Russo, CSR, RPRs
21
22
23
24
25



Jon Luer
4/26/2018

Page 103

A <p>a.m 35:2 abilities 14:22 ability 7:17 8:1 41:14 85:17 able 7:22 42:19 86:5 ABNA 15:1 16:3 18:1 above-captioned 99:9 accent 31:3,4 accents 31:4 access 52:16 accessible 39:11 54:3 accommodation 9:12 accompanied 52:8 53:14 55:3 accompany 45:17 49:2 70:7 account 47:8 accredited 13:12 accurate 47:2 95:8 96:13 accurately 83:17 acknowledged 39:2 ACLU 2:14 3:3 8:12 10:10,15 11:8 83:14 99:3 acquisition 23:7 act 71:7 acted 47:15 action 47:17 actions 69:6 active 21:24,25 23:3 77:8 activities 70:25 actual 92:17 Adam 12:3 adding 70:21 address 96:9 adjacent 82:20</p>	administered 56:22 57:3,7 advanced 81:14 affiliated 19:12,12 51:10 aforementioned 102:5 aforesaid 102:8 afraid 68:23 afternoon 6:19 age 5:8 11:25 55:24 56:1 agencies 15:6 aggregates 18:5 AGREED 5:2 ahead 49:8 64:6 81:17 92:7 aids 27:6,11 air 60:5,12 92:20 92:20,23 airguns 25:5,6 airport 25:24 33:24 ajar 89:17,22,24 alarm 71:10 aligned 60:13 allow 87:17 allowed 52:16 allows 20:2 Amazingly 33:24 American 73:9 Amin 30:8 ammunition 21:16 amount 71:3,5,15 Amsterdam 96:10 Andrea 1:4 2:3,20 3:14 5:22 27:25 99:6 100:3 angle 62:25 88:24 animals 28:8 65:7 87:17,20 90:5 announced 40:24 43:17 announcing 36:22 37:6 38:18	annunciated 36:7 answer 7:1,3,8,22 8:2 18:12 35:11 43:25 69:5 94:14 94:15 answered 69:2 94:6 anybody 20:24 85:13 91:21 anymore 64:5 anytime 7:11 98:8 apart 56:4 apex 40:8 apparent 55:18 apparently 54:13 APPEARANCES 3:1 appeared 41:9 42:6 57:2 appears 42:10 47:2 62:18 85:6 apply 13:21 appreciate 9:15 approach 11:10 approaching 10:10 50:20 appropriate 14:23 approximately 30:22 40:7 84:18 94:21 April 1:16 2:14 29:18 30:3 99:9 apron 51:3 archway 85:7 area 22:20 54:3 66:17 74:10 82:8 84:11 86:9 91:8 91:25 areas 29:7 arm 42:9,11 98:6 armed 43:8,22,23 68:21,22 69:10 arms 43:25 arouse 35:6 arrest 76:25	arrivals 33:23 arrive 33:22 34:19 arrived 34:2,6 69:19 arts 25:7 ascertain 51:15 asked 43:22,23 44:18,23 56:25 70:4,5 94:6 asking 47:16 94:8 asleep 34:24 asphalt 18:5 assigned 15:11 100:7,9,11,13,15 100:17,19 assignments 18:3 assistant 17:23 associated 74:5 assume 7:8 27:22 42:9 63:19 69:20 ATF 23:2,10 athletic 61:5 attempt 46:11 attempted 48:17 49:16 attend 73:14,17 75:21 attended 12:25 14:7 attending 15:21 attention 94:19 attorney 5:18 58:18 62:1 83:13 102:12 audit 23:3 audits 14:18 23:12 Austrian 72:25 authority 15:8 automatic 20:18 Avenue 3:9 average 25:23 awake 44:22 awaken 27:20 awakened 44:22 aware 8:5 34:6	awoken 94:3 B <p>B 4:6 back 8:24 10:16 13:19 22:16 34:4 46:21 48:21 51:14 52:3 53:19 55:11 55:15,20 63:11 64:22 68:2 73:11 75:10,11,25 79:9 85:4,13 88:4,13 88:14 89:1,2,9,10 91:1 96:6,7 97:24 backed 50:5 background 20:7 20:14 22:12 60:15 61:6 82:17 backwards 17:1,3 52:25 80:6 backyard 61:7 83:1 83:2 bad 68:8 72:19 badly 68:24,24 bamboo 58:12,12 58:16 59:6,11 60:1 85:16 86:19 86:22 banging 36:13,14 36:22,24,25 37:2 37:5 bannister 78:22,23 bar 64:11,19 65:3,4 barely 78:9 BARSTOW 1:22 base 40:10 73:25 based 19:15 25:15 basement 19:14 36:21 37:3,5 38:7 38:17,21,23 52:15 53:21 54:1,2 78:9 78:12,15 basically 13:14 19:25</p>
--	---	---	--	--

bathroom 82:9,10	9:10,17 10:20	briefly 12:20 13:10	23:14 99:13	63:7,13 90:22
bathrooms 81:19	11:1 26:10 32:15	16:5 76:1	carry 24:8	91:6 98:9,12,15
98:15	35:3 38:15 47:13	briefs 33:9,15 45:7	case 9:22 10:13	checked 98:14,16
Becker 1:15 3:8 4:3	50:5 51:24 55:16	bring 74:21	11:6,7 38:19 39:6	checking 91:8
5:12,25 18:12,20	55:19,23 56:14,14	brought 71:18	cases 10:11,24	checks 22:12
18:23 23:19,21	56:23 58:20,23	brown 31:14	casualties 48:10	chemistry 13:15
33:21 46:16,21	62:2 63:19 67:13	brownish 58:17	cat 28:1 29:4,12	chest 41:25
53:15 57:11,20	69:25 73:13,14,17	build 31:9	cat's 29:15	children 11:23 12:5
58:2 59:3,20	76:14 77:13 83:10	buildings 74:5	categories 20:4	Christine 12:17
60:20 62:6 66:5	83:16 87:21 89:21	built 64:17 65:24	category 15:10	cigar 88:11
67:1 73:20 75:5,6	89:25 91:16 93:6	84:17	21:11 22:15	cities 15:7
75:10 78:5,25	95:5 98:6,16	burglar 68:10	cats 28:2,3 29:1,6	citizen 4:9 73:9
80:3 81:11 82:12	believed 10:13,23	98:10	90:5	city 15:23 76:4
83:4 94:4,12	95:9	burned 61:24	cause 1:5 2:5,18	civil 13:3 15:5
98:20 99:13	bell 92:22	Burns 17:4,11,17	Cc 99:19	16:12
becoming 56:7	belligerent 72:10	bush 58:7	CCR 99:17	claim 27:14 94:10
bed 27:22 28:16	belongs 60:8	business 14:7 19:12	center 19:19 28:18	class 22:14
34:7,9,18,21	Bend 74:12	22:19 71:9	28:20 32:5 40:6	classes 73:18
38:11 39:3,7	Benjamin 1:8 2:8	buy 20:2	48:4 50:15,17	clear 9:4 20:17
44:22 45:21 48:7	2:22 3:12 99:6	buying 19:10	60:3,13 61:10	31:16 33:8 37:13
63:12,14 64:1	100:4	C	79:18 80:9,22	88:1 95:11 98:4
68:6 69:21,21	best 64:6 101:7	C 102:1,1	81:16 92:12,20	clearly 36:7 42:20
90:23,24 91:11,13	better 11:16	cab 30:8,20,25	Central 3:9	42:24 43:21
91:17,21 92:11,13	big 51:22 74:12	50:18 51:1,6,16	certain 2:18 27:1	clients 15:6,9,10
bedroom 28:10,10	bit 10:15 11:5	55:25 56:17 70:21	37:2	Clinton 1:8 2:7,22
28:15,17,22,24	19:13 42:7 43:24	95:16 97:2,14,16	certainty 37:8	3:13 6:1,8,17
29:3 31:22 32:1	47:12 54:23,25	97:20	certification 13:11	29:20 67:23 72:6
37:9,10 39:25	58:16 61:2 81:14	call 8:12,16 10:19	13:23	72:7 97:5 99:6
40:1,12 48:4 49:6	84:25 86:14 87:8	28:20 32:5 77:3	certifications 14:9	100:4
81:17,18,20,22,25	88:14	89:13	14:10,20	Clinton's 6:18
92:2,6 98:15,16	board 18:9	called 17:4 20:7	Certified 1:19,19	close 15:22 23:16
98:17	bolt 65:21,23	24:12 37:19 57:4	2:16 102:2	30:22 36:15 57:13
bedrooms 28:18	books 18:15 23:5	70:11 97:2	CERTIFY 102:3	60:3 75:6,20 80:8
29:3 40:5 91:25	border 72:25	calling 35:25 37:16	chain 87:15	closed 29:3,7 46:2
beds 29:4	born 12:2,3	37:22 38:3	chair 61:18,19	49:12 66:12 89:1
began 43:11 44:15	bothered 48:17	calls 94:4,12 97:21	chance 97:7	90:23,25 91:5,19
95:1	Box 76:12	Camry 50:12,15	change 39:7 83:21	closely 83:20
beginning 6:23	Boxer 33:1	Captain 6:10 30:2	100:7,9,11,13,15	closer 43:3,11 89:1
80:24	boxers 33:3,6,7	car 49:12 50:25	100:17,19	89:15
begins 40:18 80:23	45:7	52:4 76:7 96:7	changed 11:19	closes 88:25
begun 40:19	break 7:11,13	card 73:9	66:14	closest 30:20 97:21
behalf 1:15 5:10	46:17,18,22 75:7	careful 95:9	changes 100:5	closet 81:23 82:8,9
belief 88:21 101:7	75:9,11	Carl 1:15 3:8 5:25	charge 20:13	closets 52:12
believe 6:12,17	brief 52:10,12		check 20:7,8,14	clothed 76:23

clothes 32:21 39:8 45:16,17 62:11 69:9 70:7 77:21 85:12 86:6	complaints 4:10 complete 25:9 completed 25:11 completely 7:18,23 8:2 42:11 46:2 66:11 80:15 85:1 90:7,12 91:19	67:5 75:12,23 76:11 77:10,12 99:14	53:23,24 54:7,8 54:18 57:17 58:19 58:21 60:7,16,17 61:8,9,15 62:16 62:17,19,20,22,23 contacts 75:16 contained 95:6 continues 61:2 96:8 96:25	courtroom 5:17 covered 85:7 credit 75:21 Crestwood 76:4 Crime 20:8 cross 40:6 92:8 Cross-Examinati... 4:4 83:7 cruising 76:6 CSR 5:4 102:20 cup 7:12 Curios 23:24 current 17:7 22:2 currently 15:1 18:1 24:11
club 24:11				
coffee 7:12				
collect 20:15 22:24				
collection 21:19,20				
collector 18:18 20:16	component 13:21 15:12			
college 12:24 13:12 17:9 72:20	components 56:3 compost 61:11 82:17,20			
color 31:14 33:5 45:10 58:17	compressing 60:7 compressor 60:13			
colored 33:16	computer 13:15 95:2			
colorized 33:10	concealed 24:8			
come 10:9 23:4 29:19 36:21 38:17 38:19 40:9 43:11 44:23,24 45:16 55:15 64:3,4 68:22 73:3	concern 68:4 concerned 90:4			
comes 23:10 39:17 50:22 63:10 71:14	concrete 18:5 condition 83:17			
coming 16:7 32:20 36:17 50:20,21 56:6 70:17,19	conditioner 60:5 conditioning 60:7 60:12 92:21			
comments 95:7	conditions 7:17			
commission 25:13 25:16 101:18	conference 8:11			
commissions 77:8	confidence 71:11			
common 19:24 82:5,10	conflict 22:21			
communicated 97:4	confrontation 36:3 36:4 37:20 39:9 68:23 76:17 79:3			
communications 73:22	confrontational 72:10			
company 16:17 17:4 19:7 51:9	confronts 71:24			
competitive 25:6	confusion 31:17			
compilation 83:10	consider 25:20,23 35:4			
complaint 4:9,11 8:20,22 9:12,16 47:1 67:4 71:2	construction 14:13 15:4 16:23			
	consulting 15:5 17:4			
	contact 10:17,18 29:19 30:11,14			
	45:19,22 50:21			
		67:5 75:12,23 76:11 77:10,12 99:14		
		contacted 11:2,4 67:7		
		contacts 75:16		
		contained 95:6		
		continues 61:2 96:8 96:25		
		continuing 14:1,5 84:21		
		controversy 102:8		
		conversation 30:17 56:12 67:8,12,16 68:2,20		
		conversations 97:13		
		converted 23:25		
		cooperated 48:22		
		copies 48:18		
		copy 19:3 21:25 47:21 74:24 75:3 94:20 99:8		
		cordial 72:9,13,14 74:20		
		corner 28:12 32:4 40:17,23 76:20 92:23 98:3		
		correct 5:18,20,21 5:23,24 6:2,3,5,8 6:11,16 8:7 9:8 10:3 12:7,8,11 13:6 15:2,3 16:3		
		19:5,6,21,22 20:15 21:9 25:13 26:4,18 27:6,15 28:4 29:25 30:21		
		31:18,21,23 32:4 32:12,15 33:16 34:16 35:23,24 37:11 39:11 41:6		
		44:3 45:2,23 47:8 47:9 48:22 49:25 50:13 53:4,5,8,16		
		couple 15:24 70:10 71:6 87:3 89:9 97:21,24		
		court 1:1,19 2:1,19 5:17 8:6 24:13 102:13		
		county 's 68:8		
		couple 15:24 70:10 71:6 87:3 89:9 97:21,24		
		court 1:1,19 2:1,19 5:17 8:6 24:13 102:13		
		dead 65:21,23 69:1 69:5		
		deal 18:19 19:11 68:11		
		dealer 19:14 23:25		
		dealt 67:25		
		Dear 99:7		
		December 10:21		

Jon Luer
4/26/2018

Page 106

11:4 74:12	30:15 31:22 87:22	discussed 9:23	65:20,22,24 66:10	51:3 84:9 95:21
decibels 26:25	91:7 97:25	discussion 10:8	66:11,13,20 78:9	96:6
decorative 79:8	description 4:7	44:13,15 54:20	78:12 81:25 85:19	dropped 34:20
deer 24:23 87:20	85:7 91:25	55:1,7,14,21	85:22 88:4,5,15	44:14
Defendant 6:4,7	design 14:22 15:13	disgruntled 76:18	88:15,16,17,18,22	drugs 68:11
29:19,20	16:13,20,21	dispatched 70:15	88:25,25 89:3,11	drunk 68:12
defendants 1:9,15	designed 85:10	distance 26:9 40:2	89:13,14,16 90:1	dry 58:14
2:9,22 3:7 5:10,25	designer 16:8	40:11,19 92:25	90:7,10,20,21,22	duly 5:8 102:6
9:5	designing 18:8	distress 27:15	91:4,9,17 92:7,10	duties 16:5,11
defined 84:11	destructive 19:21	distressed 48:11	doorbell 35:13,15	17:17 18:1,2
definitely 31:8 33:3	20:4	distressing 76:10	92:17 93:1,7,17	duty 68:8
43:4 46:25 51:18	detail 31:11	distribution 23:7	93:21 94:1,7,9,11	
definitive 26:23	details 47:23 67:16	District 1:1,1 2:1,1	94:16	E
degree 13:2	89:9	2:19,19	doorjamb 78:10	E 4:1,6 99:3 102:1
deliberated 10:9	determination 43:6	disturbing 68:13	doors 29:3 63:6,17	e-mail 10:20 67:4
deliberation 10:7	determine 47:10	68:18	64:17 65:17,19	earlier 21:12 52:17
department 9:7,10	deviation 85:1	Division 1:2 2:2,20	71:9 81:23 87:23	78:13 88:9 89:7
14:11 16:10,19	device 20:4	divorce 12:14	88:3,8,13,20 90:4	early 34:4
17:6,24 22:23	devices 19:21	doctors 27:8	90:23,25	earn 13:10 25:13
47:18 74:14 75:18	dialog 43:12	document 9:4,5,14	doorway 66:8	eased 43:10
75:24	diary 25:17	18:25 46:24 47:6	80:11 81:22	easily 39:11 41:12
department's 9:11	died 48:2,3	47:16 57:12,16,21	DOT's 15:7	east 51:3 58:6 59:7
depends 63:14	difference 83:24	67:2 95:13	double 50:4 63:25	72:24 81:3 85:3
depict 81:12	different 18:3 74:9	documentations	doubt 97:9	eastern 1:1,2 2:1,2
depicted 59:16	difficult 22:8 35:11	14:15	downstairs 53:21	2:19,19 32:11
64:25 65:2 79:2	51:15	documented 24:6	downtown 95:17	50:5 58:11 87:2
79:20 80:4,14,17	difficulty 26:17	dogs 28:6	downward 66:1,1	edge 28:19,21
81:3,6,25 82:13	dining 32:10	doing 16:8,14	drafting 18:8	59:13 87:1,2
depicts 62:15 90:13	direct 4:3 5:11	17:18 18:6 20:13	drastically 43:10	education 12:21
depo 6:18,22	94:18	36:25 40:21 47:12	drawers 52:12	14:1,5
deponent 100:5,22	directed 42:8	74:1,2	drawn 70:20	effect 36:2 37:17
deposes 5:9	direction 13:17	dollar 71:3,4,15	dressed 45:5 48:25	46:10 51:22
deposition 1:14	42:18 48:6 49:16	door 30:24 32:8,9	49:1,2,5,5 70:6	eight 40:7
2:13 5:3 6:13,16	79:6,9	35:17 36:21,24	drinking 34:13	either 21:2 28:19
6:19 8:10,19 9:19	directly 48:4,8 51:4	37:3,5 38:4,18,21	37:22 58:14 65:25	37:22 58:14 65:25
18:24 57:14 99:9	92:7 98:7	38:22 40:1 44:20	69:4 97:4	
99:11,19 100:2,5	dirty 85:18	45:25 46:2 49:3	driver 30:8,20,25	element 16:22,23
102:12	disabled 68:12	49:10,11,12,13	49:15 50:19 51:16	elevated 71:1
describe 13:10 16:5	disappear 97:1	52:4,4,5 54:4,4,9	51:17 55:22,25	elevation 41:10
30:25 36:11 40:21	discouraged 69:3	54:15 56:2 62:9	56:17 96:3,17,25	42:8
41:7,21 56:22	70:23	62:14,16,18,21	97:2,14,16,20	Elizabeth 12:1
65:18 76:1 78:7	discovery 30:19	63:8,9,9,10 64:1,4	driveway 30:24	emanated 38:9,10
80:4 84:5	41:20 78:6 79:1	64:9,11,12,13,15	49:19,20,21,23	emanating 69:8
described 16:18	discuss 9:22 11:7	64:22,23 65:4,5,6	50:2,4,22,23,24	embarrassed 70:24

Jon Luer
4/26/2018

Page 107

emotional 27:14	estimation 43:15	85:25 86:4,5 87:5	32:6 44:7 50:5	fewer 63:24
employed 15:1	82:18	87:6 88:19,24	58:4 61:5 79:9	fictitious 19:18
16:24	evening 12:9 34:21	89:11 90:15 91:10	80:24 82:15	22:25
employees 15:17	48:12 64:7 65:16	91:18,23 94:20	fact 68:16 85:2	field 74:7,7
17:14	67:25 88:9,12	95:7 97:25 98:1	93:12	fields 61:5
employer 17:2	94:2	exhibits 62:13	factor 71:13	figure 71:15
employment 17:1	event 21:25	83:11 84:21	failed 25:15	file 9:12 47:11
17:10	events 47:8 83:24	exiting 90:5	faint 82:23	filed 22:25 47:10
empty 81:20	94:24	expect 8:15 73:3,11	fair 7:3,9,14 85:7	70:8,18
Enclosed 99:8	eventually 27:1	experience 35:8	86:25 91:25	filings 19:9 47:3
Enclosures 99:18	everyday 13:22	89:16 93:24,25	fairly 39:18 41:9	71:2 102:13
encounter 74:19	evident 56:7	experiencing 26:20	89:18,19	fill 20:6 48:20
ended 68:24 76:19	ex-wife's 12:16	expert 31:3	fall 15:10 20:4 56:4	filled 22:22
engineer 13:8,18	exact 18:1 39:3	expire 22:2	fallen 41:13	filling 46:25
engineering 13:3	46:11 67:16 69:21	expired 21:22	falling 22:14	film 63:16
13:15,16 15:2,5	96:9	expires 101:18	familiar 14:16	filter 10:25
16:19 17:4,11,21	exactly 8:25 9:25	explaining 69:3	41:19	finalized 12:14
engineers 16:12,20	33:1,11 34:7	exposure 58:4	family 19:15 40:17	finally 38:15
enhance 14:22	42:16 61:13 66:14	59:24	40:18 63:11 80:7	find 20:1 68:6
entail 16:6	76:23 80:8 84:5	expressed 68:4,9	80:9 83:21	77:22,24 83:22
enter 13:16 78:12	88:1	extended 41:6,8,9	far 59:15 78:1,3	93:19 94:20 99:8
92:7 96:25	exaggeration 95:12	42:9,11,11 44:10	79:11 82:15 83:11	fine 12:13 26:8
entered 46:2,6	exam 13:13,13	98:7	86:12,17 93:3	27:3,4
88:12 89:11	examination 4:3	extends 85:2	96:3	finger 22:12 56:24
entering 65:9 80:7	5:11 13:20 102:9	exterior 62:15	fare 51:18 70:22	57:1
enthusiast 18:18	examined 2:14	66:10 93:4	96:23	finished 34:8 43:9
entire 84:20 86:16	102:9	external 90:7	father 96:24	44:13 78:15,16,17
entirely 60:24	exclamatory 55:6	extra 64:16	father's 95:16	fire 21:16,17,20
entrance 40:16	exclusively 21:10	extreme 28:12 58:8	96:18	61:22 88:10,10
62:9 85:20	Excuse 49:4	extremely 58:15	FBI 20:7 22:12	89:5
entrances 63:21	excused 76:8	eye 29:14 42:19	fear 68:20 71:13,16	firearm 24:2 42:15
entranceway 88:5	exhibit 4:7 18:22	eyes 42:17 56:24	federal 14:18 19:3	firearms 4:18 18:17
entry 52:7	18:24 21:22 46:19	eyesight 26:6	19:24 20:6 21:2	18:19 19:3,10,20
entryway 59:6 78:8	46:23 47:16 57:9	<hr/> F	federally-funded	19:25 20:12 22:16
84:9	57:11,18,21,25	face 28:22 29:25,25	14:12	24:3,7,10,16
equipment 89:19	58:2 59:1,3,18,21	36:6,6,6,6	fee 20:13	38:23 41:5 44:14
especially 71:6	59:23 60:18,21,25	face-to-face 67:9	feel 7:12,22 71:11	54:24
Esq 1:15 3:3,4,8	61:11 62:4,7	faced 51:9	71:13	fired 21:21 48:5
99:3	64:22 66:3,6,24	faces 28:24 29:16	feet 30:21 40:3,3,8	firewood 61:15,16
essentially 47:7	67:1 78:4,5,24,25	31:18,20 59:24	50:25 86:22,24,24	firing 24:3 26:13
establish 14:23	79:21 80:2,3,7	facial 31:10	92:25 93:2,5	41:24 42:7
established 19:14	81:10,11,13 82:11	facing 31:23,25	fell 34:24 69:24	firm 15:4,5 17:11
estimate 21:7 34:22	82:12 83:12 84:4		fence 61:7 87:11,14	19:9
estimates 17:22	84:7 85:5,19,23		87:15,16	first 5:8 9:21,23

10:16,18 12:1,3,6 18:3 36:7 40:1,14 40:22 42:24 43:16 45:19 49:17 50:18 57:16 69:11 70:11 71:6,19 79:16 80:13,18,21 82:9 83:9 84:14 98:3 fit 55:24 fitting 33:2 five 10:5 18:6 49:9 86:23 95:14 flags 74:8 flashlight 42:5 flashlights 40:24 41:1 42:13,17 43:3,10 flies 65:9 flight 34:3 Floor 3:9 flooring 83:21 focus 23:18 88:3 90:14 foggy 9:2 folded 62:11 86:6 folding 61:19 foliage 58:13 foliaged 58:9 follow 49:6 56:25 follow-up 83:5 following 96:15 100:5 follows 5:10 foot 79:13,13,13,17 86:9,21 87:3 forced 52:7 foregoing 101:6 form 18:11 20:6 25:21 33:18 53:9 73:5,15 formal 24:6 format 47:1,4 formation 41:11 forth 6:21,22 24:18	forward 11:3 25:25 42:12,12 59:13 80:9 99:12 forwarded 102:12 found 19:9 47:13 68:13 70:8,15 74:22 76:7 Foundation 2:15 3:3 99:3 four 13:18 40:3 93:2 frame 10:1 82:20 free 7:12 frequencies 25:16 frequency 26:17 93:15 frequently 24:22 25:1 fresh 8:23 94:24 friend 34:20 76:5 friendly 87:18 friends 34:1,1 76:20 frog 61:1,4 84:25 front 7:12 30:24 31:18 32:8,9,22 35:17 41:17 49:3 49:10,11 51:5 56:2 58:4 59:13 60:12 61:21 63:8 65:20 69:19 71:9 79:14 84:6 88:4 90:25 96:18,19 frontal 32:6 frozen 43:20 frustrated 97:2 full 15:25 24:8 fully 16:18 44:22 78:17 functional 89:20,20 89:24 functioning 93:8,9 fund 10:12 fundamentals	13:14 furniture 71:9 83:22 further 42:22 43:12 55:7 60:23 83:4 98:18,20 <hr/> G garage 30:24 32:11 38:5 49:11,12,13 49:24 50:9,13,16 50:18 52:4,4,5 58:7,11 59:8 60:2 62:9,21 64:2,4,9 66:8,9,17,18 78:12 85:20 86:17 88:6,6,18 90:10 90:16 91:18 general 20:1 generally 35:5 genuine 70:16 German 19:15 24:11 Germany 72:20 getting 22:14 23:2 70:23 75:6 76:17 give 56:12 76:25 77:14 given 6:13 55:17 99:9 glancing 91:3 glass 63:10 64:11 glasses 26:7,14 31:12 go 12:22 13:19 15:24 17:1 18:19 20:6 22:11 23:1,3 23:4 25:1 26:13 33:25 34:21 41:12 49:8 52:15 53:7 53:19,21 55:20 56:13 63:7,12,14 64:1,6 71:20 74:7 75:25 76:8 81:17	84:3 85:4 86:12 87:17 89:2,9 92:9 goes 12:18 22:16 65:25 85:6 going 6:25 9:14 12:21 17:3 18:20 19:9 23:15 24:6 29:15 32:19,22,23 41:12 46:16 48:18 55:15 63:2 69:16 70:25 73:14 74:8 79:13 80:6 82:23 83:1,2,9 84:24 91:13,21 93:5,19 95:14 96:24 good 5:13 7:7 10:9 10:13 68:17 76:6 77:22 gotten 14:8,11 23:16 70:12 government 14:12 15:6,9 grab 39:8 69:7 grade 25:5 graduate 13:12 graduated 12:23 13:2 graduation 17:9 grants 14:16,18 grasses 60:25 61:4 grassy 86:9 gray 29:12 greater 26:25 green 73:9 82:23 greenery 87:19 ground 6:20,24 groups 52:1 grow 71:12 growing 61:4 guardrail 14:23 guess 10:24 11:14 11:16 31:7 34:3 93:5 guessed 31:3	guessing 91:12 guide 4:10 guilty 56:15 gun 18:18 19:14 55:7,9 70:20 guns 20:3 21:4,6,13 43:2 54:7 98:4 guy 56:12 guys 68:8 <hr/> H H 4:6 hair 29:4 31:10 half 8:13,17 18:5 23:12,13,15 30:23 50:22 79:14,17 93:2 hall 69:22 81:19,19 81:20 hallway 40:4,4,5,17 40:18,19 41:13 45:15 49:9 79:3,7 79:12,13,25 80:10 80:23,24 81:2,15 81:16 91:24 92:8 Hamil 5:15 hand 18:19,19 41:2 41:3,6,8,8,24 42:6 42:7,7 98:6 handed 18:23 46:22 handgun 39:4,11 41:23 69:7 handing 66:5 67:2 78:5 handle 65:21,23 66:20 hands 41:5 43:21 44:6 72:7 hang 60:4 85:17 happened 8:21 10:2,23 23:18 27:21 36:3 45:13 47:20 48:19,24
--	---	--	--	--

49:14 51:11,25 54:15 55:10,13 56:13 68:23 69:1 76:22 happening 29:14 36:19 happy 7:13 47:20 hard 29:14 31:7 38:9 hardest 23:1 hardware 89:19 hardy 58:15 hat 52:11 53:12 56:5 77:16,20,24 he'll 73:10,17 head 7:1 48:9 70:11 headboard 92:14 92:15 93:4 heading 61:2 headquarter 74:4 hear 6:20 25:15 26:21 27:2,3,13 32:19 35:13,17,25 37:13,16,19,24 38:1,3,7 94:7,11 heard 30:19 35:19 36:8,9,11,24 37:21 38:11 48:19 69:12 94:3 hearing 26:16,20 27:4,6,9,11 93:12 93:21 94:15 heavily 58:9 59:6 84:10 heavy 35:4,7,9 58:12 hedge 86:16 87:9,9 height 11:14 31:1,8 held 16:11 41:25 42:13 helping 42:22 hereinbefore 102:6 hereunto 102:14 herewith 102:12	hertz 26:19 27:13 93:13,17,20 hesitate 35:20 99:14 hi 34:17 hide 70:24 hiding 52:17 high 12:22,23 22:15 25:3,5,16 26:17,21 68:11 76:3,5,12 82:16 Higher 42:15 highest 71:22 highway 15:4,13 16:8,21 17:21 75:18,19 highways 14:24 18:8 hired 17:21 historical 21:8,12 history 18:14,15 hit 48:6 hobbies 18:10 hobby 20:9 hold 18:1 70:20 holding 41:1 42:5 71:21 holes 48:20 hollow 48:7 holstered 43:3 home 15:20,24 23:10 27:19 28:11 28:17 31:18 32:4 32:5,12 33:22 34:4,7,12,19 37:21 38:1 46:14 56:6 60:10 63:21 64:3,5 69:19,25 72:7 95:16 hood 91:2 hope 72:1 hostered 44:14 hour 8:13,17 23:12 23:15 46:17 72:24	hours 14:4 15:25 23:13 house 15:25 16:1 19:16 27:23 28:8 28:13,19 29:2,8 32:7,21,22 36:9 37:14,18 38:5 39:5,15,21 40:12 42:21 43:9,24,25 44:4 49:23 52:3,8 53:8,19 54:11,13 54:17 55:21 58:5 58:24 59:7,7,14 60:1 63:3 65:8,12 68:5,7,10,17,21 69:9 70:17,19 71:10 72:18 73:25 82:14 83:14,18,18 84:6,16 86:18,25 87:23 88:4,6,12 89:6 90:5,16,25 92:18 94:16 95:16 95:17 96:9,16,17 96:19 97:1,1 98:10 houses 85:15 huge 17:11 huh-uh 7:2 hunt 24:20,22,25 26:13 hunting 24:24 hydraulic 89:1,14 89:15	initially 17:20 23:24 55:25 inquire 27:10 inside 36:9 38:19 53:3 54:18,20 65:5,8 83:18 88:10 89:6 inspection 16:23 inspector 18:4 instances 76:2 77:4 Instant 20:8 intense 22:11 intent 85:9,10 interaction 72:9 interest 53:12 77:17 interested 72:11 88:5 interesting 74:23 interior 62:18,21 64:9 66:16 90:10 internal 34:3 international 17:13 internet 47:13 interrupting 23:15 intersection 81:16 intoxicated 78:1 intruder 54:11,12 54:17 69:12 intruders 39:5 68:21 investigate 32:20 38:14 issue 88:3 issued 19:25 issues 26:3 58:13 item 61:17,22	I idea 34:17 51:10 identical 81:13 identification 18:22 46:20 57:10 57:19 58:1 59:2 59:19 60:19 62:5 66:4,25 78:4,24 80:2 81:10 82:11 identified 51:12	J Jack 76:12 January 21:22 22:3 Jesse 3:4 58:19 Jessie 8:12 jet 34:3
---	---	---	--	--	---

Jon Luer
4/26/2018

jittery 71:8	Kirsten 12:1	laws 22:18	life 75:16	65:3,21,22,24
job 13:22 18:7 74:3	kitchen 64:2 66:9	Lawson 3:13 6:10	light 35:8 39:17	90:22
jobs 15:11	78:11 80:11 81:7	30:2	51:4,5 66:16,17	locked 36:21 38:17
Johnson 30:5	83:21 91:2,8,18	lawyer 8:12 9:21,23	66:18 68:19 69:4	52:17 54:14 63:8
join 49:16 71:21	91:24	10:6	78:19,23 81:7	65:5 66:2 91:1
joined 49:15 55:11	knew 8:13 44:25	lawyers 11:8,8,10	91:2,8	locking 91:6
joining 55:18	70:15	layers 63:25	lighting 39:14,19	locks 65:20 66:14
Jon 1:4,14 2:3,13	knocked 44:20	laying 44:22 77:21	lights 39:16,20	logged 23:6,7,8,8
2:20 5:7,15 99:6,8	knocking 35:17	leading 38:5 59:13	42:21 76:18 90:24	logical 89:23
100:1,3 101:6,11	37:13,25 38:18,21	leaf 59:12	likes 29:12	long 8:16 11:12
Jonathan 12:2	know 9:22 10:11	leafed 58:8	Lindbergh 12:23	16:24 23:10,13,21
jotting 95:1	11:22 17:23 19:11	leaned 61:19	Lindell 15:14,15	43:5,7,13,15
July 10:2 11:20	20:17 27:22 30:7	learned 13:21 97:9	line 44:1,13 59:16	50:24 51:22 67:12
21:5 27:4,18 28:3	30:8,18 32:20	97:22	60:3,9,14 62:11	79:25
58:13 63:20 64:8	33:1,11 35:22	leave 77:1	64:16 82:15,23	longer 55:19 56:20
64:19 67:5 75:12	36:9,16,25 38:13	left 6:4 32:10 34:1	85:2,12 86:7,10	look 32:6,23 36:18
75:23 77:10 83:18	44:25 52:25 53:3	40:6 41:2,3,8 42:1	86:12,15,21 87:2	39:9 52:12 66:20
jumped 51:18	53:12 57:4 59:15	42:6,7,12 52:6	100:7,9,11,13,15	77:15
Junior 82:16	63:15 67:13 68:25	54:15 58:8 59:12	100:17,19	looked 39:1,13
jurisdiction 76:3	70:25 71:4,5,6,23	60:1,6 66:21	linens 81:24	72:18 82:17
97:21	72:3 76:23 78:1,3	69:25 72:6,16	lines 95:14	looking 25:25 32:8
justified 48:18	90:24 93:9 96:9	77:5 78:22,23	link 47:13 87:15	52:10 53:12 55:9
justify 70:19	97:19	80:15 81:19,20	lit 39:15,19	64:22 66:10 77:16
justifying 68:14,15	knowing 68:22	82:7,8 87:9 88:23	literally 92:12	77:23 78:11 79:6
<hr/> K <hr/>	89:3	90:11 91:4 92:3,4	little 10:15 11:5,17	80:9 88:4 90:16
Karen 1:18 2:16	knowledge 98:13	92:9	19:13 42:7 43:24	91:9
5:4,17 99:17	101:7 102:7	legal 24:9	47:12 54:23,25	looks 60:5 62:11
102:2,20	known 68:21	lend 56:14	58:16 61:1 81:14	78:21
<hr/> L <hr/>	length 93:16	lengths 14:23 50:25	81:15 84:23,25	Loon 11:12 96:11
keep 18:20 25:17	lady 70:14	let's 17:1 28:20	86:14 87:8 88:14	loops 61:1
29:3,14 39:4,15	lagged 34:3	33:19 48:21 97:24	lived 11:12 84:16	loss 26:20 93:12
65:5,9	laid 38:11	letting 76:8	lives 30:12	lot 10:11,12,24 15:8
keeping 23:2 72:11	lamp 81:3,6,6	level 26:23,24	living 28:7 29:13	18:15 23:1 39:19
kept 13:23 54:7	larceny 56:15	42:14,15 65:6	29:16 32:3,9 34:5	52:19 68:9 71:19
64:8	large 15:12 20:22	71:11	64:4 82:6 91:24	75:19 82:16 84:24
Kevin 6:10	54:5 58:8 60:25	lever 65:25	LLC 1:21 19:8	85:5
key 72:11	larger 59:12	license 4:18 14:2	loaded 39:4	loud 7:1 27:2,12
keyhole 64:25 65:2	late 9:25 67:13	18:18 19:3,19,25	local 22:18	louder 27:12
killed 69:2	laundry 60:4 85:17	20:18,25 22:2,6	located 28:11 62:14	loudness 26:25
kind 31:11 51:15	85:18	22:14,19 23:22,24	66:21	Louis 1:7,22 2:7,16
87:21	law 71:18	24:1	location 31:17	2:21 3:5,10 12:21
kinds 68:12 71:20	lawful 5:8	licensed 13:18	36:15 38:13 79:20	22:19 36:1 37:16
76:9		licenses 22:4	80:12,17	37:23 38:3 40:25
kiosks 74:9			lock 63:10,11 64:23	

Jon Luer
4/26/2018

43:4,20 47:14 74:15 76:13,14 95:17 99:5,6 100:3 love 18:14 low 41:19,22,23 72:11 lowered 43:11 44:10,12 Luca 11:22 27:24 33:21 34:12 35:9 45:2,4,12 46:1,4,6 46:10 48:3,7,21 49:5 51:17 52:2 56:17,22,25 57:7 69:17 70:3 72:20 73:23 78:1 94:3 Luca's 28:17,24 31:22 46:2 52:9 53:13 77:15 81:22 81:25 Luer 1:4,14 2:3,13 2:20 5:7,15,16 6:1 12:1,3,17,18 46:22 75:11 83:9 99:6 100:1,3 101:6,11 Luer's 99:9 Luxury 73:23	majority 21:15,21 making 4:10 27:14 36:17 69:4 90:25 male 30:25 31:2 malls 74:9 man 62:9 manage 14:12 16:15 management 16:17 16:23 manager 16:2,9,9 16:10,16,19 17:23 17:25 managers 16:13 managing 17:23,24 manually 89:24 90:1 manufacturer 51:9 Marie 12:17 marked 4:15,16,17 18:22,24 46:19,23 57:9,12,18,20,25 58:2 59:1,3,18,20 60:18,20 62:4,6 66:3,6,24 67:1 78:4,24 80:2 81:10 82:11 83:11 94:19 marriage 12:2,3,6 married 12:11,14 marital 25:7 master 28:10 81:18 98:15 mastered 13:14 materials 18:4 math 13:15 matter 27:2,12 85:2 99:9,14 102:8 magnolia 58:9 59:12 85:16 mail 20:2,18 main 18:3 49:12 63:6 major 73:20	mechanism 92:18 93:1,7,17,18 Media 73:22 medications 7:25 meet 9:21 meeting 15:22 meetings 75:21 member 24:11 memory 25:20 26:1 26:3 mentally 68:12 mentioned 25:9 26:16 89:6,14 92:11 102:6 merit 11:1 met 9:23 30:2,6 36:6 MHTD 17:8 Michael 1:8 2:7,21 3:13 6:7 99:6 100:4 middle 60:16 79:12 military 24:6 25:14 71:21 72:4 mind 8:24 23:14 29:15 74:24 94:20 94:25 mine 11:1 76:5 Ming 77:11 mingle 18:16 minimally 39:15 minimum 14:4 minor 75:17 minutes 67:15 mirror 79:8,11,14 79:17 80:25 mischaracterizes 53:10 misidentified 96:10 Missouri 1:1,7,22 2:1,7,15,16,17,19 2:21 3:3,5,10 13:1 13:1 14:11 15:19 17:6 19:18 22:22	99:3,6 100:4 102:3 mistakes 71:25 72:2 MO 1:19 99:5 modern 64:16 modify 9:13 MoDOT 17:7 18:2 moment 24:17 money 14:19 96:24 Monsanto 15:10 month 25:4 73:10 months 10:5,17 11:6 73:10 morning 5:13 7:23 8:3 27:17,18,20 27:24 28:14 30:15 30:21 32:14 35:12 35:18 83:25 mosquitos 65:9 mounds 77:21 move 33:19 moved 18:7 44:2 movement 87:20 movie 34:5,8,10 89:6 91:12 moving 72:11 multi-chime 93:18 multiple 24:5 44:1 Munich 72:23,24 muzzle 41:25	72:23 necessary 14:15 95:5 99:11 need 7:11 14:23 26:24 needed 64:15 negative 75:23 76:11 77:4 neighbor 60:8,10 neighbor's 59:15 60:1 neighbors 36:19 69:15 neither 8:13 94:2 98:14 never 15:25 21:21 25:3 29:25 50:21 56:13 57:13 74:22 77:8 new 89:18,19 NICS 20:7 night 7:20 27:17 29:1,5,21 37:7 39:16 47:22 48:1 48:10,15 50:10 52:6 63:2,15 64:1 65:11 66:15 67:14 80:13 88:2,8 89:2 89:22 90:2,6,19 91:17 93:10 94:11 97:11 nights 71:6 nine 66:21 nodded 91:15 noise 35:21,22 36:20 44:23 noises 32:19,20 35:6,19 36:8,11 38:11 69:8,12 normal 25:20 32:19 90:22 normally 65:6 90:18 93:22 north 28:20,24
---	--	--	---	---

29:16 31:18 northeast 32:3 northern 32:6 98:17 northward 58:4 notary 99:12 101:17 notes 9:6,9 93:13 95:2 notice/agreement 102:4 November 58:21,23 number 14:8,9 22:22 26:25 30:12 30:18	officer's 53:19 57:1 officers 35:25 37:13 37:16,22 38:3 40:1,9,14 41:1,11 42:4,20,25 43:2,4 43:17 45:20 46:13 49:3,6 53:1,6,7 55:21 56:9,16 68:16 70:3,14,16 72:13 75:17 76:15 76:21 79:6,7,16 79:20 80:13,17 94:10 95:25 97:10 97:23 98:2,4,8,9 offices 2:14 15:17 offset 41:10 oh 54:24 okay 7:6 52:21 74:25 84:20 86:2 91:23 94:24 Olive 99:4 Olve 2:15 3:4 Olympic 25:5 Omri 3:3 5:18 99:3 once 12:11 13:12 16:11 25:4 26:19 26:24 27:3 43:2,9 54:23 72:6 89:4 ones 10:25 11:1 14:13 15:11 open 36:16 37:7 43:22 45:25 52:6 54:9 62:24 63:9 64:3,3,12 69:14 88:24 90:1,4,11 opened 44:21 52:4 52:16 77:19 88:21 88:22,24 90:12 opening 54:3 openness 87:17 operable 21:14,15 35:15,16 operate 93:19 operating 93:7	operations 73:25 opportunity 77:22 opposite 81:1 order 69:22 71:18 ordered 70:6 oriented 92:14 origin 38:13 original 8:20,22 99:12 origins 19:15 outcome 47:25 outdoors 36:18 outside 29:14 36:10 36:17,24 39:17 45:17,18 52:2,18 52:22 53:2 55:12 62:10 63:7,9 69:13 70:7 83:17 84:1 88:13,14 89:13 95:24 97:10 outwards 50:6 overflow 39:19 oversee 16:10,14,20 overseeing 16:20 17:25	Parkway 60:16 82:16 part 6:15 13:19 22:15 37:5 48:19 68:18 84:12 90:21 92:20 94:5 95:12 part-time 74:3 partial 24:9,9 particular 47:17 63:3 parties 5:3 102:4 parts 40:9 45:15 pass 56:5 Passau 72:20 73:21 passenger 56:1 passing 96:16 paste 9:15 pasted 47:7 path 56:24 60:24 61:1 84:24 pathway 84:11,20 84:22,22,23 85:6 85:10,11 86:3,4,8 86:17,20,25 87:2 87:10 patrol 75:20 patron 76:17 paying 51:19 payroll 77:8 PE 13:6 pedestrian 38:4 pending 2:18 people 16:10,20 19:11 22:13 27:10 27:23 68:4,11 71:25 74:7 77:7 85:14,17 94:14 percent 9:9 21:11 42:10 95:10 97:16 Perfect 87:4 period 14:3,3 43:13 permission 77:14 permit 20:18,21 24:8	perpetrator 52:11 55:20 person 29:22,25 51:18 52:5 55:3 56:8 64:15 72:19 76:19 77:17,23 79:4,10,14 82:19 86:10 96:25 person's 70:19 personal 18:10 petite 31:2,5 pets 65:7 phone 8:12,16 10:19 29:24 30:1 30:12,18 67:7,10 photo 82:13,25 photograph 4:12 4:13,14,15,16,17 4:19,20,21,22,23 58:18 59:4,9,10 59:16,21 60:6,15 60:22 61:10,25 62:8,15,25 65:1 66:7,11 78:6,7 79:1,2,5,10,19,21 79:22 80:3,5,14 80:18 81:12 82:1 82:3,22 86:13 92:19 photographing 22:13 photographs 62:2 83:10 phrased 53:11,18 physical 7:17 25:15 pick 25:24 picked 33:23 34:2 34:20 pickup 50:3 picture 32:7 66:19 79:15,23 80:8,23 81:4,6,13 82:18 82:19 90:13 92:12 pictures 83:14,16
---	--	--	--	---

84:3	police 6:7 9:7,10,11 36:1,1 37:17,17 37:22,23 38:4,4 40:25 42:25 43:2 43:4,17,20 45:20 47:18,19 67:5 68:16 70:13,16 71:11,16,24 74:14 75:13,15,17,24 76:13,15,18,23 77:12 95:15,25 96:8 97:2,10,23 98:2	precise 79:24 precisely 36:15 predominantly 15:6,12 premises 77:1 89:4 prep 9:19 preparation 8:9 prepare 8:18 prepared 9:1 17:25 94:21 presence 99:12 present 3:11 12:5,6 27:19 99:19 presented 54:10 57:14 president 24:11 pretend 56:13 pretty 14:25 16:21 26:2 32:16 56:7 80:8 prevent 64:12 previous 17:1,2,8 60:25 62:13 previously 4:15,16 4:17 32:7 46:19 46:23 47:6 57:9 57:11,18,20,25 58:2 59:1,3,18,20 60:18,20 62:4,6 66:3,6,24 67:1 82:17 88:15 94:19 97:25	87:15,16,19 private 15:9 20:5 20:25 privy 55:15,22 probably 10:1 11:16 18:13 33:4 36:23 66:21 69:20 76:15 77:9 82:19 problem 13:22 93:21 94:15 problems 22:17 39:22 procedure 4:11 90:22 procedures 4:8 proceed 11:2 59:22 process 19:10 30:19 41:20 71:2 processor 95:3 produce 17:21 produced 2:13 9:5 45:1 78:6 79:1 80:4 professional 1:20 13:8,18 proficiency 24:10 profit 20:9,11 project 16:9,9,13 projects 14:13,14 16:14,15,21 17:23 17:24 pronouns 51:14 52:19 prop 90:3 properly 14:19 property 39:18 59:15 60:9,11,14 60:24 61:6 82:15 85:1,2 86:10,12 86:16,21 87:2,5 propared 89:24 90:1 protect 68:8 protection 41:15 proud 71:23	provide 65:6 87:16 97:17 providing 85:16 proximity 30:23 96:5 public 71:22 99:12 101:17 pulled 75:17 76:4 purely 36:20 37:4 purpose 87:13 pursuant 102:4 pushing 71:9 put 8:21 9:16 22:16 32:21 39:7 45:16 45:17 69:9 70:7 71:10 84:15,22 85:11 87:1
Q				
plain 76:23	polite 67:20,24 68:1	president 24:11 pretend 56:13 pretty 14:25 16:21 26:2 32:16 56:7 80:8 prevent 64:12 previous 17:1,2,8 60:25 62:13 previously 4:15,16 4:17 32:7 46:19 46:23 47:6 57:9 57:11,18,20,25 58:2 59:1,3,18,20 60:18,20 62:4,6 66:3,6,24 67:1 82:17 88:15 94:19 97:25	processor 95:3 produce 17:21 produced 2:13 9:5 45:1 78:6 79:1 80:4 professional 1:20 13:8,18 proficiency 24:10 profit 20:9,11 project 16:9,9,13 projects 14:13,14 16:14,15,21 17:23 17:24 pronouns 51:14 52:19 prop 90:3 properly 14:19 property 39:18 59:15 60:9,11,14 60:24 61:6 82:15 85:1,2 86:10,12 86:16,21 87:2,5 propared 89:24 90:1 protect 68:8 protection 41:15 proud 71:23	quality 25:6 83:3 quantity 54:24 question 7:5,8 22:1 25:22 35:11 65:17 73:6,16 84:14 88:2 89:22 90:6 90:19 91:17 94:8 94:22 95:5 questioning 43:8 44:2 questions 8:2 23:19 83:4,6 84:4 97:24 98:18,20 99:14 quickly 56:4 quite 9:24
R				
Plaintiff's 59:20	position 16:7 41:10 41:14,19,22,23 42:2,5,21,23 44:9 45:15 66:1,2,2 68:6 79:5 88:23 90:13	positioned 48:8 positively 51:12 52:25 56:3 98:14 possess 20:18,21 possession 23:5,6,9 possible 72:12 94:10,16	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
60:20 62:7 83:12	position 16:7 41:10 41:14,19,22,23 42:2,5,21,23 44:9 45:15 66:1,2,2 68:6 79:5 88:23 90:13	positioned 48:8 positively 51:12 52:25 56:3 98:14 possess 20:18,21 possession 23:5,6,9 possible 72:12 94:10,16	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
84:7,21 85:19,22	position 16:7 41:10 41:14,19,22,23 42:2,5,21,23 44:9 45:15 66:1,2,2 68:6 79:5 88:23 90:13	positioned 48:8 positively 51:12 52:25 56:3 98:14 possess 20:18,21 possession 23:5,6,9 possible 72:12 94:10,16	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
85:25 86:4,5 87:4	position 16:7 41:10 41:14,19,22,23 42:2,5,21,23 44:9 45:15 66:1,2,2 68:6 79:5 88:23 90:13	positioned 48:8 positively 51:12 52:25 56:3 98:14 possess 20:18,21 possession 23:5,6,9 possible 72:12 94:10,16	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
88:19 89:11 90:15	position 16:7 41:10 41:14,19,22,23 42:2,5,21,23 44:9 45:15 66:1,2,2 68:6 79:5 88:23 90:13	positioned 48:8 positively 51:12 52:25 56:3 98:14 possess 20:18,21 possession 23:5,6,9 possible 72:12 94:10,16	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
91:10,18,23 94:19	position 16:7 41:10 41:14,19,22,23 42:2,5,21,23 44:9 45:15 66:1,2,2 68:6 79:5 88:23 90:13	positioned 48:8 positively 51:12 52:25 56:3 98:14 possess 20:18,21 possession 23:5,6,9 possible 72:12 94:10,16	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
95:6	position 16:7 41:10 41:14,19,22,23 42:2,5,21,23 44:9 45:15 66:1,2,2 68:6 79:5 88:23 90:13	positioned 48:8 positively 51:12 52:25 56:3 98:14 possess 20:18,21 possession 23:5,6,9 possible 72:12 94:10,16	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
Plaintiffs 1:5 2:5,21	position 16:7 41:10 41:14,19,22,23 42:2,5,21,23 44:9 45:15 66:1,2,2 68:6 79:5 88:23 90:13	positioned 48:8 positively 51:12 52:25 56:3 98:14 possess 20:18,21 possession 23:5,6,9 possible 72:12 94:10,16	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
3:2	position 16:7 41:10 41:14,19,22,23 42:2,5,21,23 44:9 45:15 66:1,2,2 68:6 79:5 88:23 90:13	positioned 48:8 positively 51:12 52:25 56:3 98:14 possess 20:18,21 possession 23:5,6,9 possible 72:12 94:10,16	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
planning 32:22	positioned 48:8 positively 51:12 52:25 56:3 98:14 possess 20:18,21 possession 23:5,6,9 possible 72:12 94:10,16	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
plans 17:21	positioned 48:8 positively 51:12 52:25 56:3 98:14 possess 20:18,21 possession 23:5,6,9 possible 72:12 94:10,16	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
plant 58:8 59:11	positioned 48:8 positively 51:12 52:25 56:3 98:14 possess 20:18,21 possession 23:5,6,9 possible 72:12 94:10,16	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
plants 58:10,14,15	positioned 48:8 positively 51:12 52:25 56:3 98:14 possess 20:18,21 possession 23:5,6,9 possible 72:12 94:10,16	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
plausible 94:1	positioned 48:8 positively 51:12 52:25 56:3 98:14 possess 20:18,21 possession 23:5,6,9 possible 72:12 94:10,16	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
Pleasantville 34:11	possess 20:18,21 possession 23:5,6,9 possible 72:12 94:10,16	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
please 5:13 7:1,5	possible 72:8 postgraduate 13:4 power 25:3 practice 64:6 practices 13:20 Praiss 3:3 4:4 18:11	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
24:14 33:19 36:12	possible 72:8 postgraduate 13:4 power 25:3 practice 64:6 practices 13:20 Praiss 3:3 4:4 18:11 23:14 25:21 33:18	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
59:21 60:21 62:8	possible 72:8 postgraduate 13:4 power 25:3 practice 64:6 practices 13:20 Praiss 3:3 4:4 18:11 23:14 25:21 33:18	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
75:5 82:13 99:8	possible 72:8 postgraduate 13:4 power 25:3 practice 64:6 practices 13:20 Praiss 3:3 4:4 18:11 23:14 25:21 33:18	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
99:12,14	possible 72:8 postgraduate 13:4 power 25:3 practice 64:6 practices 13:20 Praiss 3:3 4:4 18:11 23:14 25:21 33:18	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
plenty 39:17	possible 72:8 postgraduate 13:4 power 25:3 practice 64:6 practices 13:20 Praiss 3:3 4:4 18:11 23:14 25:21 33:18	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	primarily 15:4 20:15,12 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
point 27:1 40:20	possible 72:8 postgraduate 13:4 power 25:3 practice 64:6 practices 13:20 Praiss 3:3 4:4 18:11 23:14 25:21 33:18	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	primarily 15:4 20:15,16 primary 50:11 principles 13:20 printer 83:3 printing 5:5 22:12 102:10	R 102:1 race 31:1 rag 78:21,23 raised 41:9 rang 94:1,9,10 range 25:2 26:13 91:2,2,9 ranges 24:18
43:10 44:11,25	possible 72:8 postgraduate 13:4 power 25:3 practice 64:6 practices 13:20			

ranks 16:8 17:20 71:21	refresh 8:25 9:3 refuge 54:13	represent 5:25 10:11 83:17,20	34:24 40:7,16,21 41:5,6,8,13 44:19	route 47:23 routine 63:3 87:22
rapidly 56:7	regard 24:4 63:3 70:3	reprint 82:25	48:9 49:11 51:25	row 28:19 60:12 87:9,9
rarely 15:21 65:5	regarding 27:9 99:14	request 53:19	53:25 56:1 59:10	RPR 5:4 99:17
reaction 54:23		requesting 53:18	59:11,23 60:2	RPRs 102:20
read 18:15,17 95:4 95:15 97:3 99:10 100:7,9,11,13,15 100:17,19	registered 1:20 19:17	required 14:4 24:8	61:14,17,21 62:10	rules 6:20,24
reading 26:7 100:5	rejoined 49:9	Resecured 55:11	62:13 68:16 72:21	run 29:8 76:9
ready 41:19,22,23 69:21	related 18:15	residence 23:4	72:24 78:9,14	runs 60:14
real 54:25 70:13	relations 75:20	residential 22:20	79:18 80:24 81:21	Russo 1:18,21 2:16 5:4,17 99:17
realize 39:6 48:12 48:14 69:8 71:24	released 55:20	Resort 73:23	82:3 92:2,8,23	102:2,20
really 48:10 69:3 70:23	relevance 18:11 23:17 33:18	resources 10:12 75:19	97:22 98:6	S
rear 31:20 80:10	relief 72:18	respect 6:21 19:13 24:2 71:12,19	rigid 64:17	S 4:6 5:1
reason 89:17,21,25 90:3 91:16 93:6 100:7,9,11,13,15 100:17,19	rely 65:6	84:6 85:5 88:2 93:12 98:1	ring 35:13 67:19 94:7	S-C-H-U-E-T-Z... 24:15
recall 9:13 31:11,13 33:15,20 44:5 46:8 55:8 65:12 68:7 70:2 87:23 88:7 95:19,22 97:7,20	remain 64:2	respond 10:16	ringer 92:17 93:1,7 93:17	S-U-L 42:4
receive 74:16 77:5 77:7	remained 52:2,22 53:1 69:19 89:16	responded 68:11	risk 22:15	sales 22:22,24
received 74:11	remaining 15:24	responders 71:19	Road 76:14	64:14
recognize 18:24 46:23 51:2 57:12 57:21	remedy 47:17	responsible 18:8	roam 29:1,2,5	sat 6:15 63:16 95:2
recollection 42:10	remember 9:25 26:1 34:10 39:2	rest 47:22 57:8	Rolla 13:1 25:10,12	saw 40:1,14,22,23
record 23:7,8 31:16 46:21 67:15 75:8 75:10,11 83:11 84:5 95:15	41:16 45:10 46:25 47:1 51:21 53:11	restaurant 76:13	room 6:4 29:13,16 32:3,9,10 34:5	42:24 47:1 51:2
recording 30:19 67:17	53:15,20 54:22,23 55:4 56:11,19	rested 7:22	38:17,22 39:14	54:24 56:23 57:2
reduced 102:10	58:25 72:8,17,17	restraint 64:17	40:17,18 44:20	57:6,14 70:6
referring 9:6 63:20 88:17	91:11	restriction 21:1,2	45:12 46:2,7	76:24 79:16 80:13
	remembered 9:3	restrictions 20:24	48:22,25 49:1	80:18,21,25 97:1
	renew 21:23	retail 20:1 22:24	52:9,13,16 53:13	98:3
	renewal 14:2	retire 64:7	54:5,5,5,6,6,14,18	saying 46:8 56:11
	renewed 21:24	retired 64:18	54:21 55:7,9,11	60:11 68:7 69:4
	repeat 6:24 7:6	retrieve 70:5	63:11 70:5 77:15	96:17
	replaced 64:14	return 92:20	78:16,17,18 80:7	says 5:10
	report 16:11 47:22 70:8	returned 34:12 48:25 49:1 52:18	80:9 82:6 83:21	scareful 68:5
	reported 1:18 52:11,16	96:6	91:25 98:9	scattered 77:19
	reportedly 77:17	Revenue 22:23	rooms 98:12	scheduled 73:18
	reporter 1:19,19,20 2:17 5:17 8:6	review 4:11 14:18	ROTC 24:7 25:9,9 25:11 26:17 72:3	school 12:22,23
	24:13 102:2	reviewed 8:20,25 99:11	77:5	13:22 39:18,20,23
	REPORTING 1:21	Richard 3:13	rough 55:24	60:16 61:3,5 64:5
		ride 95:17	roughly 18:6 21:6	76:3,5,12 82:16
		rifle 20:21	40:2 50:24 61:10	Schuetzenverein 24:12 25:4
		right 7:12,16 10:2	62:24 79:5	science 13:2,15
		10:21 11:17 17:12	round 43:8 58:15	scope 70:17
		21:4 28:1 32:9	79:8	scrutiny 22:11
			rounds 20:23 65:16	

search 4:8 47:12 52:10,13 53:13,14	sense 68:10,13 sentences 51:22 95:14 96:15	86:4,14 87:4 88:19,23 89:11 90:14 91:9,18 92:19	shrubbery 83:22 86:15 shut 90:8 sic 68:5 side 32:11 37:14,18 37:21,25 41:14,14 43:21 44:7 48:8 50:5,16 59:10,11 60:6,14 61:3 66:9 66:10 78:10 80:16 81:1 82:5,9 87:9 91:4 92:2,16 sides 14:24 sign 25:14 99:10,12 signature 5:5 99:12 100:22 102:11 significantly 11:19 signs 52:6,7 silencers 20:3 silhouette 42:20 similar 17:17,19 45:5 83:23 Sincerely 99:15 single 54:4,5 65:24 78:17 93:19 sir 32:16 57:24 sirens 76:19 sit 7:16 73:13 88:13 96:7 sits 59:13 sitting 76:20 95:5 situation 68:19 69:4 six 23:25 73:10 74:8 six-month 73:11 skin 31:14 skittish 71:8 sleep 7:20 29:9,9,12 35:10 63:2 69:17	69:24 93:3 sleeper 35:4,7,8,9 sleeping 32:18 36:16 44:19 46:4 48:4,8 69:14 71:5 sleeps 93:1 slender 31:9 slept 94:16 slides 65:3 sliding 63:10 64:11 64:12,13 65:24 81:23 88:5 slightly 41:10 51:3 85:3 small 20:13 35:5 61:1,11 73:1 smoked 88:11 sobriety 55:16 56:5 56:21 57:5 socks 33:12 sofa 29:13 sold 64:15 solid 62:18 92:15 solving 13:22 somebody 13:17 38:19 54:11,13 70:14,16,20,24 71:22 86:8 son 12:2 25:24 44:18 45:1,2 51:12,17 52:23 55:17,19,23 56:10 56:14,18 64:3 68:25 70:4 93:1 94:3 95:23 son's 92:6,11 soon 40:23 sorry 45:8 58:24 sort 9:1 54:23 65:4 68:7 85:14 skin 31:14 skittish 71:8 sleep 7:20 29:9,9,12 35:10 63:2 69:17	37:25 58:11 60:16 61:2,5 82:15,16 southerly 59:24 southern 31:25 southern-looking 59:25 southwestern 28:12 spare 98:16 speak 29:22 specialized 14:25 specific 32:24 75:14 84:4 specifically 29:12 65:12,18 70:2 71:17 85:12 88:3 specifications 17:22 specify 71:4 speculate 35:21 speculating 95:10 speculation 36:13 36:20 37:4 38:16 94:5,13 speeding 74:12 spell 24:13 spend 33:25 spent 14:19 split 52:1 spoke 31:2 43:16 67:10 spouse 10:8 square 61:19 82:18 82:20 St 1:7,22 2:7,15,21 3:5,10 12:21 22:19 36:1 37:16 37:22 38:3 40:25 soon 40:23 sorry 45:8 58:24 sort 9:1 54:23 65:4 74:15 76:13,14 95:17 99:5,6 100:3 staggered 41:11 stairs 78:11,20 stance 42:23
seeing 85:17					
seeking 71:3					
seen 45:24 47:3					
57:13,16,23 62:2					
67:2					
seizure 4:8					
selected 11:1					
self 10:7					
sell 20:2,5,11,12					
22:23 74:7					
selling 19:10 73:23					
Selz 1:8 2:8,22 3:12					
6:1,4 29:20 67:23					
72:6 97:4 99:6					
100:4					
Selz's 6:15					

Jon Luer
4/26/2018

standard 20:4 33:9	stopped 76:7	32:16 34:7,22	tape 14:16	thereof 33:5
standards 71:22	stops 26:23 50:21	47:5 51:24 52:17	tax 22:22,24	thereon 100:5
standing 30:24	storage 78:17	54:12,16 63:8	taxis 49:15 51:17	thicket 58:12 59:6
40:15,16 43:21	store 20:1	65:2,8 74:5 75:1	55:22 68:10 96:25	thin 31:9 82:23
45:14 48:5 62:24	stored 38:23 81:24	76:16 77:20 87:25	taxicab 96:3	thing 14:17 24:25
78:8,14 79:6,7,9	storm 62:15 64:22	90:22,25 95:9,11	55:17	
79:11,17,24 80:12	85:19,22 89:13	96:6 97:16,18	things 9:1 47:20	
80:20,22,24 81:1	90:1,7	survey 16:22	68:9,13 70:10	
82:14,19 86:2,3,8	straight 69:21	suspect 55:23 56:10	75:22 76:9	
86:10 91:1 97:10	81:17,17	56:15,18,20	think 9:4 19:12	
98:1	strangers 68:6	swings 62:21	24:17 26:1 33:7	
stands 13:9	street 2:15 3:4	switch 66:16,17	56:7 68:24 69:17	
start 23:17 26:20	15:12 49:22 50:20	78:19,23	70:9 71:14 73:18	
67:15	51:4,5 85:16	sworn 2:13 5:8 8:5	74:1,2 75:7 83:3	
started 56:6	96:10 99:4	101:13 102:6	84:18 89:2 93:24	
starts 56:4	strictly 20:9	system 20:8 64:17	93:25 94:9 97:24	
state 2:17 5:13 15:7	strike 21:5 46:1	64:18 71:10 92:21	97:25	
19:18 22:17,22	53:7 66:16 86:3		thinking 69:11	
75:19 101:2,6	90:18 93:25 98:8	T	70:11	
102:3	structure 61:11	T 4:6 5:1,1 40:6,7,9	third 17:10 81:20	
stated 56:17 96:8	82:18	40:10 45:15 79:7	thought 10:10 39:4	
statement 10:22	studies 73:8 74:3	79:18 81:16 92:9	48:2,16 51:17	
55:6 95:19 96:13	stuff 14:24 35:6	102:1,1	54:13 56:9 69:15	
statements 101:7	36:9 39:16 52:7	T-shaped 40:5	76:6 88:11	
States 1:1 2:1,18	stuttered 43:24	table 6:11 57:15	threatened 76:25	
Station 74:5,6	style 57:3	61:20	three 18:5,14 23:3	
stay 65:8	subject 23:16	take 7:11,13 10:15	23:24 25:11 28:18	
stayed 19:16	submission 10:22	13:13,19,25,25	40:3,12 49:2 63:6	
Steffan 3:4 6:21	submitted 47:14	43:5 46:17 68:10	63:6,17,20 65:17	
8:12 58:19 83:15	95:7	72:12 73:18 75:7	65:18 72:5 73:10	
Steinebach 1:4 2:4	subscribed 101:13	78:13 83:14 90:18	three-year 22:4,7	
2:20 3:14 5:22	102:14	90:19 91:10 95:4	thumb 82:22	
99:6 100:3	subscribing 100:5	98:9	tight 33:2	
stem 40:7	sudden 26:24	taken 1:15 5:3 7:25	tighter 81:15	
stepping 49:20	suitcase 77:19	10:13 18:7 39:5	tighties 33:4	
steps 78:13 88:7	suite 2:15 3:5 74:6	46:18 47:17 54:13	tightly 33:8	
90:18,19 91:7,13	99:4	58:18,21,22 61:25	time 9:2 10:1,15,16	
stepson 11:22	sul 42:2	62:3 75:9 102:10	13:19 17:16 21:25	
27:24	summer 73:24 74:1	takes 13:11 84:24	27:23 33:21,25	
STIPULATED 5:2	74:2	talk 10:5 27:21	34:6,6,8,12,19,21	
stone 60:24	Sunday 8:11	talked 78:13	35:15 36:7 37:1	
stones 60:12,14	supervise 14:13	talking 20:17	38:8,10,16 39:14	
stop 49:4,17 67:15	sure 14:14 22:13,17	tall 58:10 61:4,24	42:12 43:13,21	
88:16 96:17	22:20 23:5 31:15	taller 86:14	45:18,19 49:2,12	

52:4,9 56:6 57:16 61:25 63:6,16,19 64:8 65:14 67:15 69:11,24 70:11,13 72:3 84:16 87:19 89:3 90:21 92:13 95:2,4,12,22,24 96:1,4 98:2,3,5,9 102:5 times 36:23 39:16 58:9 76:3 92:11 title 16:3,16 today 7:16,18 8:19 26:7 73:13 74:24 83:12 95:6 told 46:11 56:19 64:14 68:20 70:4 95:15 toll 15:8 tones 27:12 top 29:12 78:19 92:23 touching 102:8 town 73:1 Toyota 50:11 trace 56:24 traffic 75:17 training 14:6,20,21 24:2,3,5,7,9,9,10 24:16 25:7 transaction 20:14 transcribed 5:5 transcript 99:8,10 99:11 translate 19:16 transmitted 9:10 transpired 88:1 transportation 14:12 16:2,16,17 16:19 17:7 travel 18:14,16 traveling 73:24 treated 19:13 treatment 27:8	tree 58:7,9 59:12 61:23 85:16 trespass 39:19 trespassers 39:22 trial 73:3,14,17 troubles 71:5 truck 50:3 96:18,19 96:21 true 101:7 trunk 61:23 truth 5:8,9,9 8:6 102:7 truthful 7:23 95:7 truthfully 7:18 8:2 try 18:16 71:14 trying 43:24 48:20 69:12 70:24 76:9 tucked 85:14 Tuesday 6:16 29:18 29:21 30:3 31:17 57:14 turn 58:16 66:17 84:10 92:8 turned 40:23 47:20 67:18 98:2 turning 90:24 91:3 91:8 turns 59:23 twice 70:11 73:8 two 11:18 12:5 13:19 14:1 18:3 18:13,16 23:13 28:2,3 33:23 40:8 41:11 42:20 45:15 48:3,10 49:2 50:25 52:1 53:1 56:3 65:20 75:14 76:2 77:3 78:13 79:5,7 81:19 86:21 88:20 94:2 94:5,23 95:3 96:15 98:3 two-car 50:13 two-year 14:3,3	type 19:19,24 24:2 58:7 71:18 83:1 typically 21:17 29:5,10 U uh-huh 5:19 7:2 89:12 95:18 umbrella 62:12 understand 6:1,25 7:5,9 14:14 36:14 42:2 52:20 99:9 understanding 10:25 41:22 89:10 90:6 91:20 93:16 underwear 32:18 32:25 33:2 45:6 unfinished 78:18 unhappy 47:21,25 unholstered 41:24 uniformed 43:4 76:21 uniforms 43:1 uninvited 68:5 union 74:4,6 75:21 unit 60:7,13 89:14 93:7 United 1:1 2:1,18 University 12:25 13:1 unlit 78:11 unlock 54:16 unlocked 54:4,15 64:9 88:15,22 90:12 unoccupied 54:6 up-close 59:5 upgraded 64:14 upper 92:19 upside 62:12 upward 66:1 use 51:14 64:16 84:12 87:15 97:25	uses 60:3 V Van 11:12 96:10 variety 14:8,8 29:11 74:9 various 75:21 vast 21:21 Vaughn 29:23 67:7 67:10,20 68:3 77:11 vegetated 84:10 vegetation 58:6 84:12 85:5 86:14 86:14 87:13 vehicle 50:7,8,11 51:2,8 84:8 vehicles 50:1,9 vent 92:20,23 verbal 74:17 version 33:5 versus 6:1 19:13 70:16 vicinity 11:18 74:4 victim 72:1 view 59:5,25,25 60:2 61:3 66:9 80:6 81:15 85:13 85:15 86:15 90:15 viewpoint 79:4 viewpoints 9:1 violated 22:18 violations 75:18 Virtually 21:10 visible 62:12 78:9 vision 26:9,12 visit 18:16 voices 36:13,14 38:7,9,11 volunteer 76:21 vs 1:6 2:6,21 99:6 100:3 W	W 1:15 3:8 W-A-F-F-E-N-H... 19:5 Waffen 19:15 Waffenhaus 19:4 22:25 waist 44:7 wait 10:5 44:21 waived 5:6 102:11 waivers 22:18 wake 35:2 38:12,24 waking 70:3 walk 39:8 60:23 84:8 86:3 walked 49:10 52:5 76:21 walkway 59:22,23 84:9,15 wall 48:7,9 58:11 81:18 82:3,4,5,7,8 92:16 93:4 want 5:16 9:22 10:8 22:13 23:17 33:25 52:19,24 65:8 75:3 85:13 87:16,18,25 88:2 90:14 94:18 95:4 98:4 wanted 33:25 71:20 76:24 88:13 warning 74:11,16 74:17,18 77:11 wasn't 36:15 43:15 55:17 70:6,21 95:11 98:10 watch 63:16 watched 89:6 watching 34:5 wave 93:16 way 9:13 15:8 30:23 34:15 36:18 40:16 47:20 50:22 50:22 51:8 53:11 54:10,16 61:21
--	--	--	--	--

Jon Luer
4/26/2018

Page 118

64:4 79:25 85:13	WHEREOF	46:1	13:3,25 14:1	60:18,21 61:11
we'll 7:13 56:13	102:14	woken 35:5	24:23 58:10,15	83:12 84:21 87:6
89:13	white 33:9,15 50:3	wondered 70:18	73:8	87:7
we're 9:14 31:16	52:11 53:12 56:5	wondering 67:20	years 8:24 12:13	150 21:7,13
45:14 75:11	77:16,20,24 96:18	70:13,23	13:18 14:1 17:20	16 4:16 62:4,7
we've 23:15 46:16	96:19,21	wood 61:23	18:4,6,7 23:3,25	64:22 83:12 85:19
83:20	whitey 33:4	wooded 59:6	25:11 72:5 75:25	86:5 87:5 88:19
weapon 20:5,22	whities 33:8	wooden 61:11	76:12	89:11
41:24	wholesalers 19:11	82:18,20		17 4:17 17:20 66:3
weapons 19:16	wide 15:17,18 50:4	word 95:3		66:6 83:12 90:15
20:2,19 21:8,17	79:13	words 39:3 41:21		91:10,18
25:3 40:24 43:9	width 86:19,20	44:19 46:11 54:22		18 4:18 93:5
43:11,23 44:2,4	wife 5:22 8:11,20	work 13:4,17 15:14		19 21:12
44:12,15 70:20	27:24 28:14 34:4	15:20,24,25		1945 21:12
wear 26:7 27:6	35:7 38:12 39:1	worked 16:7 17:6		1979 12:23
wearing 32:17,25	39:13 45:20 47:13	17:20,22 75:18		1981 23:23
45:4 52:11 77:20	49:1 52:2,23	working 13:16 74:8		1984 12:14 13:3
website 9:11 47:14	56:17 60:3 63:17	76:15		17:9
wedged 78:22	65:15 71:7 84:17	workshops 14:8		1988 12:2
week 29:21	85:9 88:8,10,21	world 13:16 15:17		1991 12:4
weekend 24:23	89:10 90:1,10	15:17		1992 17:5,9
weeks 73:10	93:3 94:3 95:23	worn 77:17		2
Weigh 11:18	wife's 50:8	wouldn't 36:24		2-foot 61:24
weight 11:14,19	window 28:22,24	85:12		2:00 27:21
31:1	29:13,16 31:23,25	wow 54:24		2:30 27:18 35:12
Welk 73:23	32:8,10,23 36:18	wrap 75:8		20 20:23 22:5 30:21
went 8:24 11:2	37:9,10 39:9	writing 10:19 95:10		20/20 26:9,11
25:24 34:7,9,17	62:19	written 67:8 74:16		20/40 26:12
43:3,7 44:20,21	windows 36:16	74:18		2000 12:15
45:18 46:5 47:23	37:7 69:14	wrong 39:2 56:8		2001 11:13
49:5,5,11 52:3,8,9	winter 58:16	wrote 8:23 9:6,9		2010 16:25 17:5,15
53:3 54:2 55:11	wire 83:1,2	www.RussoRepo...		2013 84:19
55:21 65:22 69:17	wise 56:1	1:23		2016 10:1,3,21 11:4
69:21,22 70:10	wither 58:14			11:20 21:5 27:4
71:1 88:21,25	witness 5:5 6:21	X		27:18 28:3 63:20
89:1 90:23,24,24	45:22 76:22 91:15	X 4:1,6		64:8,19 67:5
91:11,17	94:6 102:5,9,11			75:12,23 77:10
weren't 42:19	102:14	Y		83:18
west 28:22,25	witness's 102:7	yard 39:21 63:11		2017 21:23 58:21
37:14,18 59:8	witnessed 55:16	82:15 87:18		58:23 74:12
62:13 80:25 81:5	56:6	yeah 9:2 17:7 22:5		2018 1:16 2:14
81:6	witnesses 94:5	23:20 26:19 33:10		29:18 30:3 99:1,9
western 28:19,21	woke 27:23 32:14	44:9 70:14 93:15		101:14 102:15
31:23	35:21,22 38:15	year 10:1 12:15		

Jon Luer
4/26/2018

Page 119

2020 22:3	5,000 27:13	95 21:11	
21 23:23	5:00 33:24	9th 3:9	
214 77:6	55 56:12 70:21		
23 4:18 18:21,22,24	76:13 96:23		
21:22	57 4:10,11		
24 4:19 29:18 30:3	58 4:12		
78:4,5 83:13	59 4:13,14		
25 4:20 67:5 78:24		6	
78:25 79:21 80:7		6 86:24	
81:14 83:13 97:25		6-foot 11:17,17,17	
98:1		6:00 34:1 67:14	
26 1:16 2:14 4:21		60 4:15	
80:2,3 83:13 99:9		62 4:16	
27 4:22 81:10,11		628 1:19	
83:13 91:23		63101 2:16 3:5 99:5	
270 11:18		63105 3:10	
28 4:23 82:11,12		63119 1:22	
		645 1:22	
3		66 4:8,17	
3 79:13			
3-foot 86:20		7	
3,000 17:16 26:19		74:8 66:24 67:1	
27:3 93:13		7:00 44:9	
3:00 27:20,24 28:14		78 4:19,20	
32:14 35:2,12		7th 99:1 102:15	
83:25			
30 14:4 30:21		8	
314)346-0141 1:23		8 86:24	
99:14		8-foot 40:10,19	
314.615.7042 3:10		79:25 87:1	
3141.652.3114 3:6		80 4:21	
		800 93:20	
4		81 4:22	
4:00 44:9		82 4:23	
4:17-CV-767-NAB		83 4:4	
1:5 2:5			
40 50:25		9	
41 3:9		9 4:9 46:19,23	
4473 20:6		47:16 94:20 95:7	
46 4:9		9:00 65:15	
		90 21:10 22:7	
5		90-degree 62:24	
5:4 3 31:5		84:10 88:24	
5' 31:5		906 2:15 3:4 99:4	
5-foot 86:19			